

LIBRARY OF CONGRESS

UNITED STATES COPYRIGHT ROYALTY JUDGES

The Library of Congress

-----X
IN THE MATTER OF:) Docket No.
) 2012-6 CRB CD
DISTRIBUTION OF THE 2004-2009) (2004-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X
IN THE MATTER OF:) Docket No.
) 2012-7 CRB SD
DISTRIBUTION OF THE 1999-2009) (1999-2009)
CABLE ROYALTY FUNDS) (Phase II)

-----X

CONDENSED TRANSCRIPT WITH KEYWORD INDEX

Pages: 1 through 266

Place: Washington, D.C.

Date: April 9, 2018

HERITAGE REPORTING CORPORATION

Official Reporters
1220 L Street, N.W., Suite 206
Washington, D.C. 20005
(202) 628-4888
contracts@hrcourtreporters.com

<p>1 UNITED STATES COPYRIGHT ROYALTY JUDGES 2 The Library of Congress 3 Washington, D.C. 4 -----X 5 IN THE MATTER OF:) Docket No. 6) 2012-6 CRB CD 7 DISTRIBUTION OF THE 2004-2009) (2004-2009) 8 CABLE ROYALTY FUNDS) (Phase II) 9 -----X 10 IN THE MATTER OF:) Docket No. 11) 2012-7 CRB SD 12 DISTRIBUTION OF THE 1999-2009) (1999-2009) 13 CABLE ROYALTY FUNDS) (Phase II) 14 -----X 15 BEFORE: THE HONORABLE SUZANNE BARNETT 16 THE HONORABLE JESSE M. FEDER 17 THE HONORABLE DAVID R. STRICKLER 18 19 Library of Congress 20 Madison Building 21 101 Independence Avenue, S.E. 22 Washington, D.C. 23 April 9, 2018 24 25 9:33 a.m. VOLUME I Reported by: Karen Brynteson, RMR, CRR, FAPR</p>	<p>1 APPEARANCES (Continued): 2 On behalf of Settling Devotional Claimants: 3 MATTHEW J. MacLEAN, ESQ. 4 MICHAEL A. WARLEY, ESQ. 5 JESSICA T. NYMAN, ESQ. 6 Pillsbury Winthrop Shaw Pittman LLP 7 1200 Seventeenth Street, N.W. 8 Washington, D.C. 20036 9 202-663-8183 10 11 ALSO PRESENT: 12 RAUL GALAZ 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
<p>1 A P P E A R A N C E S: 2 On behalf of Independent Producers Group: 3 BRIAN D. BOYDSTON, ESQ. 4 Pick & Boydston, LLP 5 10786 Le Conte Avenue 6 Los Angeles, CA 90024 7 213-624-1996 8 9 On behalf of MPAA and Program Suppliers: 10 GREGORY O. OLANIRAN, ESQ. 11 LUCY HOLMES PLOVNICK, ESQ. 12 ALESHA M. DOMINIQUE, ESQ. 13 DIMA BUDRON, ESQ. 14 Mitchell Silberberg & Knupp LLP 15 1818 N Street, N.W., 8th Floor 16 Washington, D.C. 20036 17 202-355-7917 18 19 On behalf of Settling Devotional Claimants: 20 ARNOLD P. LUTZKER, ESQ. 21 Lutzker & Lutzker LLP 22 1233 20th Street, N.W., Suite 703 23 Washington, D.C. 20036 24 202-408-7600 25</p>	<p>1 P R O C E E D I N G S 2 (9:33 a.m.) 3 JUDGE BARNETT: Good morning. Please 4 be seated. We're here for hearing again in the 5 Matter of: Distribution of cable and satellite 6 royalty fees, the cable years 2004 to 2009; 7 satellite years, I think, 1999 is in the 8 caption, but I'm not sure there's anything to 9 distribute yet for 1999, but satellite years 10 1999 to 2009. 11 Mr. MacLean? 12 MR. MacLEAN: Thank you, Your Honor. 13 And, incidentally, with regard to 1999, that 14 still is at issue in the Devotional category. 15 JUDGE BARNETT: Oh. Thank you. 16 MR. MacLEAN: And also, Your Honor, we 17 have handed up our exhibit binders. I would 18 like to point out that the SDC binder is nice 19 and thin and compact and very easy to use. And 20 so we encourage you to use it often and avidly. 21 JUDGE STRICKLER: Is that like an 22 infomercial? 23 (Laughter.) 24 MR. MacLEAN: That would require me to 25 pay a royalty to the MPAA.</p>

5

1 JUDGE STRICKLER: You haven't done
2 that yet?

3 MR. MacLEAN: No, Your Honor.

4 (Laughter.)

5 JUDGE BARNETT: Mr. Maclean?

6 OPENING STATEMENT BY COUNSEL FOR
7 SETTLING DEVOTIONAL CLAIMANTS

8 MR. MacLEAN: Yes, Your Honor. And I
9 also would like to preface by saying I would --
10 we are here primarily today in response and to
11 try to do our best to answer the Judges'
12 questions left over from last -- from last
13 proceeding. And so we're going to be very
14 focused, at least for our part, on trying to
15 get to the answers of those -- of those
16 questions.

17 And in furtherance of that, I'd like
18 to urge the Judges throughout this proceeding,
19 during opening statements, during the witness
20 testimony, to please ask questions of counsel
21 and of the witnesses. We're all here today
22 with the same goal, I think, which is not to be
23 back again two years from now.

24 And so I think we'll advance that goal
25 if you could -- if you could let us know your

6

1 concerns and we'll then -- and that way, we can
2 do our best to address them as we go here, and
3 not have to come back again.

4 JUDGE BARNETT: We appreciate that,
5 Mr. MacLean. We are, you know, as you know,
6 reticent to ask questions, and so we will do
7 our best. Sometimes the questions arise later
8 when we are going through the materials, and so
9 we'll do the best we can.

10 MR. MacLEAN: Absolutely. Thank you,
11 Your Honor.

12 JUDGE FEDER: And that is our goal
13 too, Mr. MacLean. Not to be back here in this
14 case two years from now.

15 MR. MacLEAN: Absolutely, Your Honor.
16 And we're all here on the same team today, and
17 so we'll -- we're going to get this done.

18 So as the SDC have said before, what
19 we are principally interested in, in this
20 copyright royalty system and in those
21 proceedings, is what we've referred to as the
22 three Cs, of confidence, consistency, and
23 certainty.

24 And what we mean by that is the
25 ability to predict in a systematic way how the

7

1 Judges will -- will approach a valuation
2 problem based on reasonable and accessible
3 information. It has to be accessible to us
4 because in a -- in a smaller category,
5 particularly like in the Devotional category,
6 in order to realize the goals of these
7 copyright royalty proceedings, which is
8 reduction in transaction costs and the
9 expeditious distribution of copyright royalty
10 funds, to avoid breaking the bank in the
11 real-life market, in the hypothetical market,
12 we believe market participants are not going to
13 expend indefinite amount of funds in order to
14 obtain and treat information.

15 The only way we're going to be able
16 to, quite frankly, afford to continue
17 participating in these proceedings and to try
18 to get our fair share of the royalties that are
19 intended for the copyright royalty -- the
20 Claimants in our category is if we can do this
21 in a systematic, reasonable, accessible way,
22 just like market participants would try to do
23 it.

24 And so that's sort of a baseline
25 framework of what we're looking for. And when

8

1 we get to that point, I do believe that we're
2 going to start to see more settlements in these
3 matters, which is going to just enhance the
4 efficiency of the whole system if people can
5 predict what an outcome is going to be.

6 The methodology that the SDC propose
7 in this proceeding is based on -- based on
8 viewership, which in the -- in what I'll call
9 the modern era of the Copyright Royalty Board;
10 that is to say, since the Copyright Royalty
11 Board itself has been the statutory framework
12 for deciding this thing, these things, is, in
13 fact, the only methodology that has been
14 adopted in these Phase II -- in Phase II
15 proceedings, which is a methodology based in
16 some way or another on viewership.

17 Viewership is a valid and reliable
18 methodology for comparing value between similar
19 programs in a category. Every expert that you
20 will hear from in this case will say that.
21 That includes, for the SDC, our expert witness
22 John Sanders, a professional appraiser with 30
23 years' experience, more than 1,000 valuation
24 projects in the context of valuing media
25 assets, including television programs; our

<p style="text-align: right;">9</p> <p>1 expert witness Dr. Erkan Erdem, an economist 2 who's experienced particularly in econometric 3 research in fields involving regulated 4 industries. And based -- and you'll have 5 the -- before you, the designated testimony 6 from last time around of our witness Toby 7 Berlin, who is an experienced satellite 8 operator, an actual market participant in this 9 field. All three will say that viewership, 10 when comparing similar programs, is a valid and 11 reliable measure.</p> <p>12 Of course, the Judges themselves have 13 said it, as has the D.C. Circuit in response to 14 the Judges' arguments on appeal and our 15 arguments as well. In the case Independent 16 Producers Group versus Library of Congress, the 17 D.C. Circuit agreed, different considerations 18 apply in Phase I and Phase II proceedings. In 19 the Phase II context, viewership remains 20 significant to determine marketplace value of 21 programming.</p> <p>22 And we agree.</p> <p>23 And our methodology presented in this 24 case involves using local -- starting from the 25 point of local ratings from Nielsen sweep</p>	<p style="text-align: right;">11</p> <p>1 comparables in the sense of local markets and 2 then trying to project how that value will 3 apply to distant markets.</p> <p>4 In the -- the Judges have raised, 5 after the last proceeding, a concern about 6 particularly our local viewing data and 7 particularly with regard to the years 1999 8 through 2003, in which we only have one sweep 9 report for each of those years, the February 10 sweep reports. 2004 to 2009, we have all four 11 sweep reports for each of those years, so a 12 total of 20 -- 24, 24 sweep reports for the 13 years 2004 to 2009, but for the full sweep 14 reports, we only have those for the February of 15 the years 1999 through 2003. That was one of 16 your -- one of your concerns.</p> <p>17 First of all, I want to say the RDPs, 18 reports on Devotional programming, really are 19 excellent, we believe the best viewership 20 information that there is for the Devotional 21 programming at issue in these proceedings.</p> <p>22 Sweep reports, unlike meter data, 23 covers all markets. We have it from all 24 markets. We have very large sample sizes. In 25 those years for which we have four sweep</p>
<p style="text-align: right;">10</p> <p>1 reports and the reports of Devotional 2 programming, scaled by the number of 3 subscribers, distant subscribers that are 4 receiving that programming. This is a -- and I 5 want to underscore here that our purpose in 6 doing this is to try to determine relative 7 marketplace value.</p> <p>8 We are not trying to necessarily 9 project distant viewership per se. That's a -- 10 that's a -- that's a step on the -- in the 11 towards the goal of trying to predict relative 12 marketplace value. And in doing it the way 13 that we do it, it is analogous, we believe, to 14 any standard appraisal process, appraisal 15 technique of -- of finding a measure of 16 relative value and scaling it by a measure of 17 relative volume, just like, for example, when 18 you're looking at real estate, you try to, 19 first, look at comparables, get a sense of the 20 value per square footage, and then you scale 21 what you're trying to value by the number of 22 square feet.</p> <p>23 To do that, necessarily, we're trying 24 -- we're to look at comparables. And that's 25 what we're doing here. We're looking at</p>	<p style="text-align: right;">12</p> <p>1 reports, that includes samples from a total of 2 400,000 households through the -- over the 3 course of those four sweep periods. So we're 4 talking about very large sample size from all 5 markets.</p> <p>6 We're using the Nielsen product, the 7 reports on Devotional programming, the sweep 8 reports, as it was designed and intended to be 9 used. We're not using our own projections 10 based on the Nielsen data, but, rather, using 11 the product as it comes to us, as Nielsen 12 designed and intended it.</p> <p>13 And we do use regressions. This time 14 around, we are using regressions, but not for 15 the purpose of calculating shares. We are 16 instead using regressions for the purpose -- 17 for the much more modest purpose of testing 18 hypotheses to try to establish in a systematic 19 and scientific way that these -- that these 20 reports are reliable and usable as they are. 21 And then we are using them as they are intended 22 to be used.</p> <p>23 This is the actual information the 24 actual real-life marketplace participants use. 25 It would be very uncommon for, for example, an</p>

13

1 actual marketplace participant to try to start
2 from the point of view of raw data and then try
3 to project from there.

4 We are using the product that is
5 available in the marketplace. And we believe a
6 hypothetical marketplace would function in a
7 similar way, would rely on similar information
8 that marketplace participants are using.

9 We do not use metered data in this
10 proceeding. We use entirely sweep data. And
11 that's for two reasons. First of all, metered
12 data uses considerably larger -- I'm sorry,
13 smaller sample sizes, but there's a really much
14 more important reason in this -- in this --
15 that we did not rely on metered data in the
16 Devotional category, and that is that metered
17 data does not cover all markets. It's
18 concentrated primarily in the larger markets.
19 It is -- it is -- it is not representative of
20 smaller markets.

21 The -- and now I will say here Program
22 Suppliers -- MPAA has gone a different route
23 and they do rely on metered data. And I'm not
24 saying that they're wrong to do so. And I'm
25 not saying what Dr. Gray is doing in this

14

1 proceeding is wrong.

2 But there is a distinction between the
3 Program Suppliers' category and the Devotional
4 category from this perspective. Where
5 Dr. Gray, for example, needs to project local
6 meter data into markets that don't have metered
7 data, he does that by using an analysis that
8 relies on the average ratings for the program's
9 Tribune category in the market that is metered.
10 In the Program Suppliers category, there are
11 multiple Tribune categories, and so there is a
12 differentiation between programs as they relate
13 to these Tribune categories.

14 In the Devotional category, we fall --
15 all of our programming falls predominantly
16 under a single Tribune category, to make a
17 projection in this way -- again, I'm not saying
18 it's wrong in the Program Suppliers category,
19 but in the Devotional category, to try to make
20 a projection this way would be tantamount to
21 assuming that all programs have the same
22 viewership, all programs in the category have
23 the same viewership. That's not a useful
24 exercise in the Devotional category.

25 And so when we say we're using the

15

1 best and really only data when we use sweep
2 data, that's what we mean. It is the only data
3 that's going to be useful to compare programs
4 within a single Tribune category because it's
5 the only data out there that -- at least during
6 the time period at issue in this proceeding,
7 that covers all markets and that allows us to
8 get a representative view of all markets in the
9 Devotional category.

10 We took to heart your concern that we
11 were using only a single sweep report for the
12 years 1999 through 2003. We engaged in a
13 comprehensive search. We talked to Nielsen.
14 We did a nationwide search of libraries to try
15 to find other reports of Devotional programming
16 from the years 1999 through 2003.

17 These searches came up empty.
18 However, we also went to all of the Settling
19 Devotional Claimants and asked them to try to
20 find old reports from their files. And one of
21 those Claimants, Coral Ridge, was able to, in
22 an attic somewhere, I don't know where it was
23 exactly, but they found a file consisting of
24 the summary pages of a number of reports of
25 Devotional programming from 1999 through 2003.

16

1 So we now at this point have --
2 including those summary pages, we have 30 -- we
3 have data from 37 of the 44 sweep periods that
4 are covered by this entire -- you know, the
5 entire year range of this proceeding, including
6 at least data from two sweep periods or more in
7 every single -- in every single year. So we've
8 -- and this, we are actually quite confident in
9 saying, is all that there is out there. If
10 there is another report of Devotional
11 programming out there somewhere in the
12 universe, it is not accessible to us at this
13 point.

14 Dr. Erdem has done a number of
15 analyses, additional analyses, to try to verify
16 that this is usable information. He has
17 conducted an analysis showing that the ratings
18 are stable over time. They do evolve over
19 time, but from sweep period to sweep period, he
20 has shown that it is very rare to have more
21 than a .1 percent variation from one sweep
22 period to the next in this -- in this data. So
23 these are stable data.

24 He does use -- in his final analysis,
25 he uses -- he still uses only the full February

17

19

1 sweep reports from years 1999 through 2003
2 because his analysis does use the detailed
3 information that's in the -- in the back of the
4 report that isn't accessible just from the
5 summary page.

6 However, he has conducted further
7 analysis to show that in every year, February
8 is representative of the remainder of the year.
9 He has also presented two sensitivity analyses
10 to show how the shares would change if you were
11 to use February reports only for all of the
12 years at issue in this proceeding, and another
13 sensitivity test to show how the shares would
14 change if you were to use every single summary
15 report throughout every year that we have,
16 throughout every year of the proceeding, and
17 these sensitivity tests show that his
18 methodology is not sensitive to those changes.

19 And you will -- even though we rely
20 predominantly on the full reports where we have
21 them, you will also be able to see the results
22 if you were to rely only on February, or if you
23 relied -- were to rely on the summary reports
24 from all years. And they are all very, very
25 close to each other in terms of sensitivity.

18

20

1 The second concern that the Judges
2 have raised with regard to our methodology is
3 the extent to which local viewing is
4 representative of distant viewing. And here
5 again I want to emphasize what we're aiming for
6 here is a measure, a systematic measure, of
7 relative marketplace value. We are not
8 literally trying to estimate distant viewing
9 per se, but starting from that case, we'll talk
10 about what we -- what we're doing here.

11 In our original data -- case, the only
12 distant viewing data that we had in terms of
13 the underlying data -- we had Alan Whitt's HHVH
14 reports, but we didn't have the underlying data
15 for those reports, other than for the year
16 1999. And the Judges raised a concern about
17 whether 1999 distant viewing data was a
18 sufficient basis on which to conclude that
19 local viewing is representative of distant
20 viewing.

21 Now we have distant viewing data on
22 the MPAA's test score sample, which the Judges
23 are familiar with from other proceedings, for
24 all 20 sweep months from 1999 through 2003.

25 And after 2003, this kind of data is

1 simply not available, so -- but what we have
2 now is the -- on the Kessler sample, the
3 distant viewing data. This is sweep data for
4 all 20 sweep months, 1999 through 2003.

5 Dr. Erdem has done a number of
6 different analyses on these to show that there
7 is a strong and significant -- statistically
8 significant correlation between local and
9 distant viewing. He has done several
10 regressions to try to establish and verify this
11 relationship and also to show that it is not
12 degrading over time.

13 He conducted a regression using a
14 trend variable. He also conducted a regression
15 using year dummies. And what he has found is
16 that the relationship between local and distant
17 viewing does not degrade over the course of a
18 period of time for which we have it.

19 Now, that is -- there might be changes
20 to the market during this period of time, but
21 the point is that these changes to the market
22 are affecting both local and distant viewing in
23 similar ways.

24 And so local viewing remains
25 representative of distant viewing in spite of

1 market changes that take place. This is --
2 this is not surprising to find. It is what one
3 would expect. It's consistent with Toby
4 Berlin's testimony as an experienced executive
5 in this -- in this field. And it's consistent
6 with standard appraisal practices. You look at
7 a comparable if you're trying to value
8 something that you don't have a direct value
9 for.

10 Bear in mind that, for the vast
11 majority of distant retransmissions, these are
12 in adjacent markets. Many of them are the same
13 markets from the cable systems' perspective. A
14 cable system has local and might be sending the
15 same channel to its subscribers; it's just
16 those subscribers happen to be living in some
17 cases on one side and in other cases on the
18 other side of the DMA order, but from the cable
19 systems operators, they're the same subscribers
20 in most cases. WGNA is an exception, but in
21 this proceeding, we have actually very, very
22 little Devotional programming that is on WGNA
23 and, in fact, the only -- the only regularly
24 scheduled Devotional programming on WGNA is an
25 is an SDC program for some of the satellite

21

1 tiers.

2 The other reason is not surprising.
3 It's that people are people everywhere. And,
4 of course, God is universal. These are not,
5 for the most part, programs of particularly
6 local significance, like, for example, your
7 local news, local weather, local sports teams,
8 things like that. These are programs that have
9 appeal across the country in many different
10 markets. And we can use viewership in one
11 market to understand likely viewership in
12 another market. Industry professionals also
13 give us some information about this.

14 And I'll point out that not all
15 problems in life can necessarily be answered
16 through data analysis and statistics. It also
17 takes some common sense and experience to
18 understand these problems. And we bring to the
19 table common sense and experience of John
20 Sanders and Toby Berlin, who said when you
21 don't have ratings in one market, you look at a
22 comparable market and you try to understand it
23 that way.

24 In Ms. Berlin's designated testimony,
25 you'll see she says that's exactly what she

22

1 does. It has never steered her wrong, is her
2 quote. That is, by the way, at Exhibit 703,
3 transcript pages 81, line 8, through 82, line
4 20. And you can see exactly what Ms. Berlin
5 says about this.

6 Now, in the past I have argued -- I
7 have presented some argument relating to the
8 cost of acquiring data. And that is an
9 important argument and one that actual
10 marketplace participants also have to consider
11 in conducting a valuation exercise.

12 But this time around, I -- based on
13 everything that we've done, all the analysis
14 we've done, I really can say this is the --
15 this is not a matter of cost. This is the best
16 and only data that we have, particularly for,
17 you know, royalty years that are so long ago at
18 this point. It's just we have done our
19 absolute best.

20 And we'll -- you know, we'll do
21 whatever else we need to do to answer the
22 Judges' questions, but this is reliable
23 information and it is also the best information
24 that there is available.

25 JUDGE STRICKLER: And you will have

23

1 witnesses who will describe the search process
2 that you've outlined here with regard to how
3 they tried to come up with all the data that
4 was potentially available?

5 MR. MacLEAN: Yes. Yes, Your Honor.
6 So both Dr. Erdem and Mr. Sanders were
7 themselves personally involved in this process.
8 We've also submitted, on the papers and with
9 the consent of the parties, the declarations of
10 Shirley Mayhue, who is from Coral Ridge and is
11 the one who actually found the data that we do
12 have. We also have a declaration, also with
13 consent of the parties, from Peter Vay, the
14 librarian at our -- at Pillsbury's offices who
15 conducted a nationwide library search to try to
16 get all the data that there is available.

17 JUDGE BARNETT: And not only are you
18 working with all of the available data, but you
19 have experts who can qualify that data and
20 explain how they came up with numbers for the
21 years -- or for the times when the data are
22 missing?

23 MR. MacLEAN: Yes, Your Honor. And
24 that's -- those are Dr. Erdem's analyses. They
25 are explained in his written testimony, and

24

1 you'll hear from him on the stand as our very
2 first witness today.

3 JUDGE BARNETT: Thank you.

4 MR. MacLEAN: So in conclusion, I do
5 want to come back to these three Cs, of
6 consistency, confidence, and certainty. There
7 is a tension, an admitted tension, between the
8 Judges' legal duties under 17 U.S.C. 803(c)(1)
9 and 5 U.S.C. Section 555(b) to decide these
10 cases within a reasonable time and also with
11 their duty to decide the case in a manner that
12 is non-arbitrary and is also based on
13 substantial evidence.

14 There is a tension between these two
15 ideas. However, they are not inconsistent.
16 Like participants in either a real-life or a
17 hypothetical market, decisions have to be made,
18 business decisions have to be made based on the
19 best available information in the time frame in
20 which action is required. Otherwise, real
21 market participants are not going to remain in
22 business, and you just have to use the best
23 information that you can get. That's what
24 we've tried to provide with you.

25 By all means -- and there is also an

<p style="text-align: right;">25</p> <p>1 aspect here of consistency in the sense of a 2 systematic process. We really need the ability 3 to be able to know, okay, this is a method that 4 the Judges have adopted in the past. We can 5 look at this using accessible information and 6 understand how they are likely to -- to rule in 7 the future.</p> <p>8 I certainly would never ask you to 9 close the door on somebody who believes that 10 they have invented a better mouse trap. 11 However, I do think the Judges should firmly 12 close the door on those salesmen of mouse traps 13 that have proven not to work in the past, or 14 because I have on occasion been accused of 15 stretching an analogy past its breaking point, 16 I will in this case say groundhog trap is 17 really what we're talking about here.</p> <p>18 You -- we believe we've presented to 19 you the -- the analytical and statistical data 20 that would enable you to decide this case on 21 reasonable and reliable data. And I'm talking 22 here about Dr. Erdem's statistical and data 23 analysis.</p> <p>24 But I also want -- and this is really 25 the key, the important point here, the most</p>	<p style="text-align: right;">27</p> <p>1 Thank you. 2 JUDGE BARNETT: Thank you, 3 Mr. MacLean. 4 Ms. Plovnick. 5 OPENING STATEMENT BY COUNSEL FOR 6 MPAA AND PROGRAM SUPPLIER CLAIMANTS 7 MS. PLOVNIK: Thank you, Your Honor. 8 Good morning. So my name is Lucy 9 Plovnick. And I, along with my colleagues over 10 at counsel table, Greg Olaniran, Alesha 11 Dominique, and Dima Budron, we are counsel for 12 MPAA and the Program Supplier Claimants that 13 MPAA represents in this proceeding. 14 The Motion Picture Association of 15 America as an organization consists of six 16 member companies who are the major motion 17 picture companies in the country. And, 18 collectively, the MPAA member companies are 19 probably the largest providers of television 20 content. However, MPAA as a party in this 21 proceeding is even much broader than that. 22 By agreement, MPAA directly represents 23 not only its member companies but also 24 approximately 100 producers and distributors of 25 syndicated television series, movies, and other</p>
<p style="text-align: right;">26</p> <p>1 important point that I want to make is that 2 you, the Judges, are the finders of fact in 3 this case.</p> <p>4 And as the finders of fact, you are 5 entitled to rely on your common sense and 6 experience, just as our witnesses, Mr. Sanders 7 and Ms. Berlin, market participants in this 8 industry rely on their common sense and 9 experience in coming up with valuations.</p> <p>10 Not all questions in life can be 11 answered using statistical analysis and data 12 analysis alone. We do need to be able to make 13 that additional leap, the understanding that 14 local viewership, the same factors that lead 15 to -- to a program being popular in a local 16 market are also likely to lead that program to 17 be popular in a predominantly adjacent distant 18 market. And that's the fundamental basis on 19 which our methodology is intended to work.</p> <p>20 So we're going to ask in this 21 proceeding for the shares that are set forth on 22 page 22 of Mr. Sanders' direct testimony, which 23 is Exhibit 7001. And we do believe that these 24 are reasonable and reliable shares that can be 25 adopted by the parties.</p>	<p style="text-align: right;">28</p> <p>1 specials, including non-team sports programs. 2 Many of the Program Supplier Claimants 3 that MPAA represents file joint claims, and 4 when those additional Claimants are taken into 5 account, MPAA represents thousands of Program 6 Supplier Claimants as to each royalty year at 7 issue in this proceeding. 8 All of the Program Supplier Claimants 9 that MPAA represents are seeking royalties for 10 television programs that aired on broadcast 11 stations that were then retransmitted outside 12 of the local market by either cable operators 13 or satellite carriers. 14 Now, while it's true that MPAA 15 represents some very large Claimants, we also 16 represent some very small Claimants. And, in 17 fact, a number of our Claimants are just as 18 small or even smaller than the Claimants that 19 IPG represents. Our Claimants' programs cover 20 virtually every television genre that you can 21 imagine, from the obscure to the popular. We 22 have science programming, children's 23 programming, news, sports, drama, comedies, and 24 so forth. On the satellite side, MPAA also 25 represents many rightsholders of network</p>

<p style="text-align: right;">29</p> <p>1 programming.</p> <p>2 That's who we are. Taken together,</p> <p>3 MPAA-represented programs easily represent the</p> <p>4 lion's share of the programming within the</p> <p>5 Program Suppliers category.</p> <p>6 Now, the Judges are tasked with</p> <p>7 determining the proper allocation of both cable</p> <p>8 and satellite royalties in this proceeding</p> <p>9 within the Program Suppliers category, and the</p> <p>10 Devotional category. And there are some</p> <p>11 important differences between cable and</p> <p>12 satellite such as the fact that network</p> <p>13 programming is compensable under the satellite</p> <p>14 statutory license but not the cable license.</p> <p>15 But those differences do not impact the</p> <p>16 economic standard on which the allocation of</p> <p>17 royalties should be based in this proceeding.</p> <p>18 The economic principle that should be</p> <p>19 the basis for the allocation here is relative</p> <p>20 marketplace value. Marketplace value, loosely</p> <p>21 defined, is the price point at which a willing</p> <p>22 buyer and a willing seller would have a</p> <p>23 transaction when neither is compelled to buy or</p> <p>24 sell. This standard was established more than</p> <p>25 a decade ago and it is the standard the Judges</p>	<p style="text-align: right;">31</p> <p>1 retransmitted by cable and satellite carriers</p> <p>2 so people in distant market could watch them.</p> <p>3 It's only logical in this context that a</p> <p>4 discussion of market value would include</p> <p>5 consideration of whether or not people are</p> <p>6 watching the television programs.</p> <p>7 In addition, we think it makes no</p> <p>8 sense at all to say you're a buyer or seller of</p> <p>9 television content but you're just not</p> <p>10 interested in whether or not people are</p> <p>11 watching the programs. The evidence will show</p> <p>12 that viewership and ratings are the currency of</p> <p>13 the television marketplace.</p> <p>14 As Dr. Gray will testify in this Phase</p> <p>15 II proceeding, we're dealing with the</p> <p>16 distribution of royalties in the Program</p> <p>17 Suppliers category and the Devotional category.</p> <p>18 As Dr. Gray explains, when you're trying to</p> <p>19 find the relative value of programming within</p> <p>20 these categories and allocate royalties between</p> <p>21 two parties, like MPAA and IPG, who have</p> <p>22 similar program content, viewership provides an</p> <p>23 objective measure to determine relative market</p> <p>24 value. Dr. Gray will explain the economic</p> <p>25 theory behind his decision to rely on viewing</p>
<p style="text-align: right;">30</p> <p>1 have applied now in the last two Phase II cable</p> <p>2 royalty distribution proceedings. And as our</p> <p>3 witness, Dr. Jeffrey Gray, who is our expert</p> <p>4 economist, will explain, this is the</p> <p>5 appropriate standard here as well.</p> <p>6 Our presentation will answer three key</p> <p>7 questions which we believe in the end will</p> <p>8 assist you with determining how the shares in</p> <p>9 this proceeding should be allocated.</p> <p>10 The first question is what evidence</p> <p>11 supports the relative market value standard and</p> <p>12 should govern royalty allocation in this</p> <p>13 proceeding? The second is whether or not that</p> <p>14 evidence is reliable. And, finally, are the</p> <p>15 witnesses supporting that evidence credible?</p> <p>16 As to the first question, MPAA will</p> <p>17 present our expert economist, Dr. Gray. As</p> <p>18 Dr. Gray will explain to you, the evidence that</p> <p>19 we believe supports the relative market value</p> <p>20 standard of allocation and distribution is</p> <p>21 viewership. And we think that makes sense</p> <p>22 because television was created so people could</p> <p>23 watch content on television.</p> <p>24 The Judges are here to allocate</p> <p>25 royalties for programs that were distantly</p>	<p style="text-align: right;">32</p> <p>1 evidence in this proceeding and why that metric</p> <p>2 is reliable.</p> <p>3 And the second question, which I'm now</p> <p>4 coming to, is the one of reliability of the</p> <p>5 evidence. In addition to Dr. Gray, who I've</p> <p>6 already mentioned, MPAA is presenting testimony</p> <p>7 in this proceeding either through live</p> <p>8 witnesses or on the papers of Ms. Jonda Martin</p> <p>9 of Cable Data Corporation and Mr. Paul</p> <p>10 Lindstrom of Nielsen. These witnesses will</p> <p>11 testify as to how the evidence was gathered.</p> <p>12 In terms of the process, you'll receive</p> <p>13 testimony about how we procured carriage data</p> <p>14 from Cable Data Corporation, how Marsha Kessler</p> <p>15 of MPAA took a sample of that -- of the</p> <p>16 carriage data and sent that to Nielsen, where</p> <p>17 Mr. Lindstrom and his company produced Nielsen</p> <p>18 diary studies for the 2000 through 2000 years</p> <p>19 for cable and separately also for satellite.</p> <p>20 You will also receive Mr. Lindstrom's</p> <p>21 testimony regarding what Nielsen does and about</p> <p>22 the custom analysis he prepared for MPAA for</p> <p>23 use in connection with this proceeding.</p> <p>24 Dr. Gray will explain how he used</p> <p>25 Cable Data Corporation data to select a random</p>

<p style="text-align: right;">33</p> <p>1 sample of distant stations for the 2004 through 2 2009 cable and 2000 through 2009 satellite 3 royalty years that he procured Nielsen local 4 ratings data for each of those years. Dr. Gray 5 will then describe how he merged that Nielsen 6 data with Tribune, or now known as Gracenote, 7 data and was able through regression analysis 8 to estimate distant viewing for each program 9 that was distantly retransmitted during these 10 years. Dr. Gray will also testify about how he 11 developed royalty shares for MPAA and IPG in 12 this proceeding.</p> <p>13 MPAA will be able to show you the -- 14 the thoroughness that each witness undertook to 15 prepare the data they provided and the care 16 with which Dr. Gray undertook the regression 17 analysis and all of his other calculations.</p> <p>18 Now, no party submitted rebuttal 19 testimony in this proceeding offering any 20 critique of either MPAA's data or Dr. Gray's 21 regression analysis. Just -- thus, to the 22 extent there are questions about Dr. Gray's 23 work, we don't expect them to be significant, 24 but rest assured, if MPAA -- if there are 25 questions, MPAA expects to be able to answer</p>	<p style="text-align: right;">35</p> <p>1 Dr. Gray found between local ratings and 2 distant viewing would continue unchanged for 3 the 2004 through 2009 time period.</p> <p>4 Now, as our witnesses will explain, 5 MPAA has addressed the Judges' concerns by 6 acquiring more data. Mr. Lindstrom will 7 explain that, after the May 4th order was 8 issued, he performed additional custom analysis 9 of Nielsen National People Meter data for 2008 10 and 2009 cable and satellite and provided this 11 data to Dr. Gray.</p> <p>12 Dr. Gray will explain how he 13 incorporated this additional data into his 14 analysis and how it addresses the Judges' 15 concerns in the May 4th order.</p> <p>16 At bottom, we are confident that the 17 evidence will show that MPAA has addressed the 18 Judges' issues, and we will also have our 19 witnesses here to answer any questions that you 20 may have.</p> <p>21 With all that said, MPAA proposes the 22 following share allocations for 2004 through 23 2009 cable and 2000 through 2009 satellite in 24 the Program Suppliers category: So for 2004, 25 MPAA's claimed share is 99.60 percent. 2004</p>
<p style="text-align: right;">34</p> <p>1 each and every issue raised satisfactorily. 2 The last point is one of credibility. 3 Each of MPAA's witnesses has a long and 4 distinguished professional history. 5 Ms. Martin, Mr. Lindstrom, and Dr. Gray all 6 have considerable experience within their 7 respective organizations.</p> <p>8 Mr. Lindstrom is one of the leading 9 experts in the country in audience measurement, 10 not just for television, but for other media. 11 Dr. Gray has a Ph.D. in economics and was a 12 national practice leader at Deloitte before 13 starting his own company in 2013.</p> <p>14 All of our witnesses are very 15 thorough, very professional, and bring that 16 professionalism to their work in this 17 proceeding.</p> <p>18 Now, I want to take a moment to talk 19 about the Judges' May 4th, 2016 order in this 20 proceeding, which reopened the record and 21 brought all of us back here today. In that May 22 4th order, the Judges found they were unable to 23 issue a final determination in this matter 24 because there was insufficient evidence in the 25 record to establish that the correlation that</p>	<p style="text-align: right;">36</p> <p>1 cable. For 2005 cable, also 99.60 percent. 2 For 2006 cable, 99.34 percent. For 2007 cable, 3 99.44 percent. For 2008 cable, 99.28 percent. 4 For 2009 cable, 99.44 percent. And those are 5 all percentages of the Program Suppliers 6 category royalty funds.</p> <p>7 For satellite for the 2000 royalty 8 year, MPAA's claimed share is 99.54 percent. 9 For 2001 satellite, 99.75 percent. For 2002 10 satellite, 94.74 percent. For 2003 satellite, 11 99.65 percent. For 2004 satellite, 12 99.87 percent. For 2005 satellite, 13 99.73 percent. For 2006 satellite, 14 99.65 percent. For 2007 satellite, 15 99.77 percent. For 2008 satellite, 16 99.78 percent. And for 2009 satellite, 17 99.57 percent.</p> <p>18 Again, also claimed shares of the 19 Program Suppliers category.</p> <p>20 Now, you'll notice that MPAA has not 21 requested a 1999 satellite royalty share in 22 this proceeding. And that is because the 23 Judges already made a final distribution of 24 royalties in the Program Suppliers category for 25 1999 satellite in June of 2013. So no</p>

37

1 controversy remains in the Program Suppliers
2 category as to the 1999 satellite fund.

3 And with that, I will end my opening.

4 Thank you, Your Honors.

5 JUDGE BARNETT: Thank you,

6 Ms. Plovnick.

7 Mr. Boydston.

8 OPENING STATEMENT BY COUNSEL FOR

9 INDEPENDENT PRODUCERS GROUP

10 MR. BOYDSTON: Thank you, Your Honors.

11 As you may recall, I am Brian Boydston. I am
12 counsel for IPG.

13 I think generally what we have here is
14 a referendum on using viewership as the primary
15 indicia of value in these proceedings. Yes, it
16 has been adopted in the past, but also in the
17 past, there have been six -- six witnesses that
18 have testified against or, excuse me, before
19 yourselves and your predecessors, who were
20 experienced cable system operators. And those
21 six witnesses all testified very clearly that
22 they did not consider ratings to be a
23 significant indicator of value of programs when
24 they actually decided to pay the royalties at
25 issue.

38

1 And they have various reasons for
2 them, but they can be summarized as two major
3 ones. One is --

4 MR. MacLEAN: Objection. Your Honor,
5 while I'm normally very, very reluctant to
6 raise an objection during opening statements,
7 in this particular instance this statement is
8 entirely outside the record in this proceeding.

9 MR. OLANIRAN: Same objection, Your
10 Honor.

11 JUDGE BARNETT: Objections are
12 overruled. Mr. Boydston's statement is not
13 evidence. I was going to ask him myself
14 however, since there is no alternative to the
15 methodologies that are being offered, what
16 difference does it make if there are other
17 methods discussed by any witnesses, current,
18 past, or present, or future, if there is --
19 because we have to make a decision and there's
20 no extant alternative methodology before us.

21 MR. BOYDSTON: Well, Your Honor, I
22 would point out that this is the second round
23 of this proceeding, obviously. In the first
24 round of this proceeding, another methodology
25 was presented and, in addition to that, even in

39

1 the current iteration of the MPAA and SDC
2 methodologies, they have adopted aspects of
3 indicia that have been advocated in the past by
4 IPG, including with regard to day part viewing,
5 including with regard to focusing -- you know,
6 looking at subscribership issues and then
7 incorporating those into their present
8 analyses. So I think there are other options.

9 In addition to that, this issue about
10 viewership goes to the very heart of the
11 efficacy of the methodologies that are being
12 proposed. And if there are --

13 JUDGE BARNETT: There are no -- there
14 are no alternatives before us.

15 MR. BOYDSTON: Understood, Your Honor.

16 JUDGE BARNETT: The fact that they
17 have incorporated some into -- some of the
18 factors that IPG analyzed means they are now
19 incorporated. There is no issue.

20 MR. BOYDSTON: Well, I guess --

21 JUDGE BARNETT: The issue that you and
22 your client have to address is whether their
23 methodologies have been correctly, accurately
24 proposed and presented.

25 MR. BOYDSTON: I -- I understand. I

40

1 believe that there are problems with their
2 methodologies presently because they do not
3 adequately address two issues, primarily: One,
4 a statistical dearth of information, which
5 collectively referred to as a zero viewing
6 problem, which not only -- it remains in these
7 -- a problem with these methodologies, and I
8 would submit it is actually exacerbated by the
9 -- by the additional work they've done to try
10 to address that issue, particularly with regard
11 to the SDC, which expanded its database in
12 their current effort here. They did expand
13 their databases, as Mr. --

14 JUDGE BARNETT: MacLean.

15 MR. BOYDSTON: -- MacLean said. Thank
16 you. Unfortunately, even though they expanded
17 their database by my estimation by about 15
18 times, even when they did that, they went from
19 having 12 measurements from February of '99,
20 i.e., in the February '99 old version of their
21 presentation, they had 12 -- they only had 12
22 measurements where people actually put in their
23 diaries, yes, I watched this show. They
24 expanded the database 15 times. Did their
25 number of measurements expand 15 times? No.

<p style="text-align: right;">41</p> <p>1 Unfortunately, it contracted. It's only 60. 2 It only grew 5 times, even though the database 3 grew 15 times. 4 So the -- the trouble with the dearth 5 of information has only gotten worse. So that 6 remains a problem with this approach, with this 7 viewership-based approach. The data simply 8 isn't sufficient to come up with a reliable 9 conclusion. 10 And because it's not -- because it's 11 so little, we submit that, therefore, it 12 doesn't get past the arbitrary -- you know, the 13 standard of are we making a decision here 14 that's arbitrary or not. And I think, you 15 know, the point there is, boy, if you just 16 don't have enough information and you just 17 don't have enough data, but you say, well, it's 18 the best we got, so let's go with it anyway, is 19 that really -- does that make -- meet the 20 statutory requirement that you've got? 21 And our argument is going to be no, it 22 doesn't. In fact, it's no better than it was 23 before. In fact, in some instances, 24 particularly with regard to the SDC, it's 25 actually worse.</p>	<p style="text-align: right;">43</p> <p>1 problem, then I think once again your command 2 by the statute is to make a distribution that's 3 not based on arbitrary -- you know, that's 4 based on evidence and that is not arbitrary, et 5 cetera, et cetera, et cetera. 6 And I think that to the extent that 7 there is a fundamental problem with focusing on 8 viewership, that creates a problem with 9 embracing such a methodology. That's why I 10 bring it up. 11 I would also point out that -- and 12 there has been testimony about this before -- 13 foreign collectives have focused on these other 14 factors that now are being looked at by the SDC 15 and the MPAA, including looking at 16 subscribership numbers. 17 I mean, these other -- Canada, 18 Australia, other places, they don't go through 19 this process of focusing on ratings and 20 viewership. Instead, what they do is they look 21 and say, okay, how many subscribers are there 22 in the -- in the stations that we transmitted 23 these things because that's how many eyeballs 24 could have seen it. 25 That's what they look at. They don't</p>
<p style="text-align: right;">42</p> <p>1 In addition to that, the zero -- 2 excuse me, the -- the efficacy of going this 3 route of focusing on viewership, I mean, unless 4 what you're telling us is that that is 5 foreclosed from debate, I think that, you know, 6 there's still an argument there. There's still 7 a problem there with the simple fundamental 8 fact that whenever -- and the Judges said this, 9 you said this in one of your prior decisions 10 for 2000 to 2003; you said it very clearly, why 11 doesn't anyone get us a CSO to tell us what the 12 CSO values? 13 And so in the first round here, we 14 did. We got Mr. Egan in here, who had 15 testified years previously. And he came in and 16 he said no, CSOs just don't consider these 17 viewership and ratings in their 18 decision-making. And he wasn't alone. There 19 were, as I said, five other people that 20 testified about that as well. 21 And that is a problem with the 22 methodologies that have been presented. And I 23 think it remains a problem with the 24 methodologies that have been presented. And if 25 it is -- if that is a significant enough</p>	<p style="text-align: right;">44</p> <p>1 look at ratings because -- I don't know why 2 they do, I can't -- I would be speculating, but 3 it's not a leap to suggest that perhaps they do 4 that because they found ratings to just be 5 statistically not there for them, not enough -- 6 they didn't have enough indicia from ratings to 7 feel good about it. 8 JUDGE STRICKLER: Will there be 9 evidence in the record as to how the foreign 10 collectives handle this use of subscribership 11 information? 12 MR. BOYDSTON: No. It has been 13 brought up in the past, but, no, we're not in a 14 position where we can do that right now. 15 I know that one of the suggestions 16 that has been made in the past is that the 17 issues about whether or not CSOs and satellite 18 operators focus on viewership or not is 19 appropriate to look at in Phase I, or what we 20 now call the allocation phase, but not 21 appropriate in Phase II, or what we now call 22 the distribution phase. 23 I have never seen or understood a good 24 rationale for why there is a distinction 25 between those two. And that's -- I think</p>

45

1 that's still the case today. And I am curious
2 to see what the experts that are going to be
3 testifying have to say about that, because from
4 my perspective, whether a CSO is -- you know,
5 when he's looking at different stations that he
6 might take to rebroadcast, why would it matter
7 -- why would the analysis of his value
8 hierarchy in his head differ as to whether or
9 not he is choosing a particular line-up because
10 of categories of programs or individual
11 programs?

12 I mean, I don't see any reason why we
13 could say it's only -- he's only considering
14 categories when he makes that decision and he's
15 never considering individual programs. I just
16 don't think there's any evidence to support
17 that or any logical reason to support that.

18 So I don't think that there should be
19 a distinction made between those two. And I
20 bring that up because that's oftentimes used as
21 a rejoinder, almost as if it's a matter of fiat
22 or assumption that you can use one in Phase I
23 but it doesn't make sense to look at that issue
24 in Phase II.

25 I know the Court of Appeal made a

46

1 comment about it in their decision, but they
2 gave no further analysis of it either. And I
3 think it was picked up by some argumentation
4 and some stuff in a brief, but behind that,
5 what's the reason? What's the logic? Why is
6 it inappropriate in Phase II to focus on that?
7 I don't think an explanation has been given to
8 that question.

9 Nothing further at this time. Thank
10 you.

11 JUDGE BARNETT: Thank you,
12 Mr. Boydston.

13 Mr. MacLean?

14 MR. MacLEAN: Your Honor, before we
15 put on our live witnesses, the SDC move to
16 admit Exhibits 7002 and 7003. This is the
17 designated testimony of Ms. Toby Berlin, a
18 satellite system operator who testified to some
19 of the questions that Mr. Boydston was just
20 raising.

21 This -- this evidence was designated
22 in full as part of our written direct statement
23 and attached to the written direct statement.
24 And we move for its admission at this time.

25 MR. BOYDSTON: No objection.

47

1 MS. PLOVNICK: No objection.

2 JUDGE BARNETT: 7002 and 7003 are
3 admitted.

4 (Exhibit Numbers 7002 and 7003 were
5 marked and received into evidence.)

6 MR. MacLEAN: Your Honor, I also at
7 this time move admission of Exhibit 7004, which
8 is the declaration of Peter Vay, the Pillsbury
9 Winthrop Shaw Pittman librarian that I
10 mentioned during opening statement, and Exhibit
11 7005, the declaration of Shirley Mayhue, who is
12 an employee of Coral Ridge Ministries and
13 provided some of the additional data that we
14 have. These declarations were attached to our
15 written direct statement, and I understand that
16 the parties have consented to their admission
17 on the papers.

18 MR. BOYDSTON: No objection.

19 MR. OLANIRAN: No objection.

20 JUDGE BARNETT: 7004 and 7005 are
21 admitted.

22 (Exhibit Numbers 7004 and 7005 were
23 marked and received into evidence.)

24 MR. MacLEAN: Thank you, Your Honor.
25 And the SDC call Dr. Erkan Erdem.

48

1 JUDGE BARNETT: Good afternoon. We
2 have fewer wires this morning than the last
3 time you were here. Please raise your right
4 hand.
5 Whereupon--

6 ERKAN ERDEM,
7 having been first duly sworn, was examined and
8 testified as follows:

9 JUDGE BARNETT: Please be seated.

10 DIRECT EXAMINATION

11 BY MR. MacLEAN:

12 Q. Good morning, Dr. Erdem.

13 A. Good morning.

14 Q. Would you please briefly introduce
15 yourselves to the Judges?

16 A. Sure. Good morning. My name is Erkan
17 Erdem. I'm a managing director and economist
18 at KPMG's Economic and Valuation Services
19 practice in Tysons Corner. As an economist,
20 I'm involved in economic and statistical
21 matters for our clients. And KPMG is a global
22 audit, tax, and advisory firm with offices
23 around the U.S. and the rest of the world.

24 Q. And could you please describe to the
25 Judges your educational background and

49

51

1 experience. And, of course, the Judges did
2 hear from you just a few weeks ago, so --

3 A. I got one more degree between --
4 (Laughter.)

5 THE WITNESS: No, I didn't. I have a
6 Ph.D. in economics from Pennsylvania State
7 University, and I have Bachelor's degrees in
8 economics and mathematics from Koc University
9 in Istanbul, Turkey. And I typically am
10 involved in economic matters for our clients.
11 That might be federal, state, or local
12 agencies, as well as commercial clients.

13 I have a focus on healthcare-related
14 matters, and the projects I'm involved in
15 typically require analysis of large data,
16 statistical analysis and regression type of
17 modeling and data analytics generally.

18 JUDGE STRICKLER: You didn't just get
19 those new degrees since the last time we saw
20 you, did you?

21 THE WITNESS: Just the last one.

22 JUDGE STRICKLER: Nice work.

23 THE WITNESS: Thank you.

24 (Laughter.)

25 BY MR. MacLEAN:

50

1 Q. Your -- the economic model --
2 econometric modeling that you've discussed, are
3 your projects frequently in the field of
4 regulated industries?

5 A. Yes, they are. For example, my work
6 for Centers for Medicare and Medicaid Services
7 typically require analysis of large data sets
8 with claims databases and regression models
9 built on all that data.

10 Q. Have you served as an expert witness
11 in copyright royalty proceedings?

12 A. Yes, I have. I served as an expert
13 for the 1999 cable proceeding, 2004-2009 cable,
14 and 1999-2009 satellite proceeding. I recently
15 served as an expert on the 2010-2013 allocation
16 proceeding, and I submitted my testimony for
17 the 2010-2013 distribution proceeding.

18 Q. Have you published on matters relating
19 to econometrics and statistics?

20 A. Yes, I have. I have publications that
21 are -- that provide economic analysis of
22 different issues and industries, and healthcare
23 is one of them. And many times we rely on
24 economic analyses and that includes regression
25 modeling.

1 Q. Do you have any teaching experience?

2 A. Yes, I do. I teach graduate level
3 econometrics at the University of Maryland as
4 an adjunct professor.

5 Q. Are your qualifications more fully set
6 forth in your curriculum vitae attached to your
7 written direct testimony; that's Exhibit 7000,
8 Exhibit 1, of your written direct testimony?

9 A. Yes, they are.

10 MR. MacLEAN: Your Honor, I offer
11 Dr. Erdem as an expert in the fields of
12 econometrics, statistics, and data analysis.

13 MR. BOYDSTON: No objection.

14 MR. OLANIRAN: No objection.

15 JUDGE BARNETT: Dr. Erdem is so
16 qualified.

17 BY MR. MacLEAN:

18 Q. Dr. Erdem, if you could please take a
19 look at Exhibit 7000 in the binder in front of
20 you. Is Exhibit 7000 a true and accurate copy
21 of your written direct testimony in this
22 proceeding?

23 A. Yes, it is.

24 Q. Is everything in Exhibit 7000 true and
25 accurate?

52

1 A. Yes, it is.

2 MR. MacLEAN: Your Honor, I offer
3 Exhibit 7000 into evidence.

4 MR. BOYDSTON: No objection.

5 MR. OLANIRAN: No objection.

6 JUDGE BARNETT: 7000 -- Exhibit 7000
7 is admitted.

8 (Exhibit Number 7000 was marked and
9 received into evidence.)

10 BY MR. MacLEAN:

11 Q. Dr. Erdem, could you please briefly
12 describe what you've been engaged to do in this
13 proceeding.

14 A. Definitely. I was hired by the
15 Settling Devotional Claimants starting with the
16 original proceeding, where I submitted a
17 methodology to distribute royalty shares
18 between SDC and IPG in the Devotional category.

19 Since then, I looked for and acquired
20 more data and provided additional evidence for
21 the Judges to consider, specifically answering
22 the concerns from the original proceeding.

23 I was also asked to review methodology
24 proposed by IPG and comment on it.

25 MR. MacLEAN: Your Honor, just to make

53

1 clear, we're not going to be offering
2 Dr. Erdem's written rebuttal testimony unless
3 something unexpected happens in this proceeding
4 that would require it to be necessary.

5 JUDGE BARNETT: Thank you,
6 Mr. MacLean.

7 BY MR. MacLEAN:

8 Q. In this proceeding, Dr. Erdem, how did
9 you go about deciding how to measure relative
10 market value of distantly retransmitted
11 programs in the Devotional category?

12 A. At a high level, my methodology relies
13 on combining two major data sets that are
14 relevant for this question. The first one is
15 the local rating data, which is also known as
16 the Nielsen sweep methodology. And that gives
17 me local ratings for relevant years at the
18 program level.

19 And the second data set I rely on is
20 the distant subscriber data from the CDC
21 Corporation. And that provides me with
22 information on how many household have access
23 to a station and a program on a distant scale.

24 I scaled the local ratings estimates
25 at the program level by the distant subscribers

54

1 to obtain a measure that is similar to a
2 distant viewership variable. And then that is
3 the basis of my calculation for relative value
4 for SDC and IPG in the Devotional category.

5 Q. In developing this methodology, did
6 you consult with any other experts?

7 A. I consulted with John Sanders about
8 the use of viewership to define value in the
9 proceeding. And he -- based on my
10 consultation, I came to the conclusion that his
11 methodology was the best methodology to answer
12 the question.

13 Q. Why do you believe that -- and you
14 testified that the RDPs that you used involved
15 Nielsen sweep ratings.

16 Do you believe that Nielsen sweep
17 ratings provide a more reliable measure of
18 local viewership than, for example, the local
19 meter ratings?

20 A. Yes, I do.

21 Q. And we're talking about here
22 specifically within the Devotional category.
23 Why is it that you would regard the sweep data
24 as a more reliable measure of local viewing
25 with respect to the Devotional category?

55

1 A. Definitely. The reports I use are
2 called reports on Devotional programming,
3 produced by the Nielsen organization that
4 provides me with local ratings information at a
5 national level. I sometimes refer to them as
6 R-7 tables in these RODPs.

7 In this methodology I'm proposing, I'm
8 not relying on market level data. And so that
9 -- and that summary table gives me a national
10 local rating measure. And this methodology has
11 been in use for a long time by -- by Nielsen.
12 It collects data from every market in the U.S.
13 And it has a very sizeable sample, four times a
14 year, and that is superior to the meter
15 methodology that doesn't even have data from
16 many markets in the U.S. Especially in the
17 Devotional category, that is especially a
18 concern where most of the content is
19 retransmitted in rural areas where there are no
20 meters.

21 So that wouldn't be -- the metered
22 survey data wouldn't be an appropriate rating
23 database to rely on here. Yeah, I think that's
24 the summary.

25 Q. In reopening this proceeding, the

56

1 Judges have raised a concern about your use of
2 only the February sweep reports for the years
3 1999 through 2003.

4 Have you done anything to address this
5 particular concern?

6 A. Yes, I have. I joined counsel and
7 John Sanders in looking for more information
8 since the original proceeding. I was on
9 multiple calls with individuals from Nielsen,
10 who told us that the data didn't exist. I know
11 the librarians at Pillsbury Law looked for
12 these RODPs for 1999 through 2003 for a while,
13 and that search didn't return anything.

14 And counsel also reached out to all
15 the Claimants and asked if they had this
16 information. And I believe one of the
17 Claimants, Coral Ridge, had some of these R-7
18 tables, only the R-7 tables, not the full
19 report, for some of the missing sweep months
20 for 1999 through 2003.

21 As a result of that search, now we
22 have access to all sweep months for 1999, and I
23 only had one month from 1999 before, three
24 sweep months from 2000, and then two sweep
25 months out of the four from 2001 through 2003.

57

59

1 So compared to what we had originally,
2 we have a significantly more local rating data
3 for 1999 through 2003.

4 Q. What additional analyses have you done
5 with these new summary pages?

6 A. In my testimony, I investigated in a
7 few different ways to understand if the
8 February sweep month is representative of the
9 full year. For example, I found that if a
10 program is rated in February, there is more
11 than a 91 percent chance that it will be rated
12 in the rest of the three months, rest of the
13 three sweep months, showing the consistency of
14 rating in a given sweep month in that
15 methodology. I believe that is Exhibit 4.

16 In Exhibit 5, I looked at how large
17 the changes were for a rating from month to
18 month, and I found that for about 97 percent of
19 the time, the change is at most 0.1 percent for
20 rated programs, again, showing me that these
21 ratings are very consistent and stable over
22 time within a year.

23 JUDGE BARNETT: I'm sorry, you said
24 from month to month. Did you mean from report
25 to report?

58

1 THE WITNESS: Report month to the
2 report month. So we have four months of data
3 for every year. And then I look at the change
4 from one month to the other for those four
5 months.

6 JUDGE STRICKLER: You mentioned the
7 91 percent statistic again. Just so I
8 understand it, what did that represent?

9 THE WITNESS: If -- if a program is
10 rated in February, which is most of what I had
11 in my original statement, 91 percent of the
12 time, that show will be rated in the remaining
13 three sweep months.

14 JUDGE STRICKLER: In all of the
15 remaining months or just some of the remaining
16 months?

17 THE WITNESS: In all of the sweep
18 months in the same year. This is within a
19 calendar year.

20 JUDGE STRICKLER: I'm sorry, within
21 the same year?

22 THE WITNESS: Correct.

23 JUDGE FEDER: By "rated," you mean it
24 achieved a certain threshold of viewership to
25 appear on a report?

1 THE WITNESS: Correct. So Nielsen has
2 a reportability standard, very rare and -- very
3 rare programs and specials don't exist in these
4 R-7 tables. And even the regularly broadcasted
5 ones have to have at least a 0.1 percent
6 rating, which is a relatively low but
7 acceptable threshold. Everything below that is
8 either not viewed or not available on a regular
9 basis.

10 So these two analyses show me that,
11 you know, February is representative, that --
12 they also show me that -- and these reports are
13 very consistent over time. Even if you were
14 missing a sweep month or two, it doesn't make
15 any difference.

16 And I also look at the end result in a
17 similar fashion in Exhibit 6 and 7, and I ask
18 hypothetical questions: What if I used only
19 the February sweep months for all of the years,
20 for cable and satellite? And the impact is
21 minimal.

22 And in Exhibit 7, I say: What kind of
23 results do I get if I use all of the summary
24 R-7 tables we acquired for 1999 through 2003
25 and look at the impact of that? Again, I find

60

1 that, compared to my baseline, the impact is
2 very, very minimal.

3 So even though I don't have access to
4 100 percent complete Nielsen rating data, I
5 feel confident that that doesn't have a big
6 impact on my proposed royalty share
7 allocations.

8 BY MR. MacLEAN:

9 Q. In your proposed royalty share
10 allocations, is it correct that you still only
11 use the full February reports for the 1999
12 through 2003?

13 A. That's correct.

14 Q. And what's the reason for that?

15 A. Because these additional R-7 tables
16 only came as one-page summaries and I didn't
17 have access to the full report to be able to
18 review the methodology -- the details of the
19 methodology, I still relied on the sweep months
20 where I had the full report, and that's why I
21 present, the version that I use, all of those
22 R-7 tables, including the summary ones as my
23 sensitivity analysis.

24 Q. The Judges have also raised as their
25 second concern -- or they might have done it in

61

1 a different order -- but they've also raised a
2 concern as to whether local viewership, which
3 is predominantly what you rely on, is
4 representative of viewership in a distant
5 market.

6 What have you done, if anything, to
7 confirm the relationship between local and
8 distant viewing?

9 A. So in addition to looking for and
10 acquiring some of the missing Nielsen sweep
11 month rating data, this is the second major
12 change compared to my original testimony. In
13 my original testimony, I only had a household
14 viewer -- HHVH, household viewership hours data
15 for 1999. I believe that came from an expert
16 named Alan Whitt in an older proceeding. And
17 that was the main reason why I only relied on
18 an analysis of 1999 when I looked at the
19 relationship between local and distant ratings.

20 However, since that testimony, I had
21 access to the same HHVH database for 2000
22 through 2003. So that is also a significant
23 extension of available data. And instead of
24 looking at only 1999 for the relationship
25 between distant and local ratings, now I can

62

1 look at 1999 through 2003 so that gives me five
2 years of data, meaning I have at least five
3 times more data, and in -- in the analysis
4 where I look at the relationship between local
5 and distant.

6 Q. Is there any available data for
7 distant viewing, specifically distant viewing
8 related data, for years after 2003?

9 A. Based on our discussions with Nielsen,
10 we are told that those reports don't exist for
11 2004 through 2009. Of course, I wish I had all
12 the data in perfect shape, but they are not
13 available as far as I know.

14 JUDGE STRICKLER: You testified before
15 about how the search went to try to locate more
16 Nielsen meter -- rather, sweeps data. How did
17 you get the additional household viewing hour
18 data? What was the methodology -- the method
19 by which you acquired that data?

20 THE WITNESS: So that method was a
21 simple one, because MPAA produced that as part
22 of the proceeding after my original report. So
23 I had access to it through counsel and MPAA's
24 production.

25 JUDGE STRICKLER: Thank you.

63

1 BY MR. MacLEAN:

2 Q. Have you done any additional analyses
3 with the distant HHVH data that you -- that you
4 now have and use?

5 A. Right. So that's another area where
6 we made an improvement in my testimony.
7 Instead of relying on only 1999 data, now I
8 constructed this larger analysis using 1999
9 through 2003 local rating from RODPs and
10 distant viewership from these HHVH reports.

11 Instead of presenting a correlation, I
12 present a regression analysis where I explain
13 the variation in distant ratings, using local
14 ratings as my independent variable, and I find
15 a positive and statistically significant
16 relationship between the two.

17 I then propose a few variations of
18 that analysis. One, I include all of the
19 programs I can match within the Devotional
20 category, not only the claimed ones, between
21 IPG and SDC and my findings when I changed, and
22 then I'm also interested in the effect of time
23 and trend over time.

24 So I run two other regressions where I
25 include a trend variable in the first one and

64

1 then year dummies in the second one to see,
2 after controlling for local ratings, does
3 distant ratings move or change in a significant
4 way over time?

5 And I find in those two sensitivities
6 that time is not an important driver of
7 variation in distant ratings. And that makes
8 me feel confident about, you know, relying on
9 the local ratings without worrying about
10 changes over time.

11 Obviously, both local ratings and
12 distant ratings move over time, right? For a
13 given program, you might imagine ratings going
14 up or down. But this analysis shows that they
15 move together. And then once you control for
16 local ratings, you don't need to worry about
17 the time dimension.

18 And to clarify one point, that
19 analysis, my first stage, right, is there a
20 statistically significant and positive
21 relationship between local and distant ratings?
22 And then in my second step, I use local
23 ratings, right? I'm not relying on the HHVH
24 data at all.

25 And that first stage is just to set

65

1 the stage and confirm that use of local ratings
2 is appropriate in the second stage. And
3 because I'm not trying to predict a precise
4 value for HHVH or a precise value for distant
5 ratings, this makes a lot of sense. You know,
6 all I'm doing is scaling up or down the number
7 I have. Let's say for a given program, I may
8 have a local rating, I am scaling that up or
9 down based on that model I built to have an
10 understanding of the distant rating. And
11 because it's all relative, this is also
12 treating both IPG and SDC programs fair, if
13 that makes sense.

14 Q. Did the lack of a statistically
15 detectable trend over time comport with your --
16 with your economic intuition and expectations?

17 A. Yes. So we are looking at the same
18 program, of course, different markets in the
19 U.S., and one is called local and other markets
20 are called distant. Before starting this
21 analysis, I didn't think that I would find a
22 significant coefficient for year or year
23 dummies or trend variable because the taste in
24 one market will be similar to the tastes in the
25 other market.

66

1 You know, we -- I don't have access to
2 2004/2009 years to repeat the same analysis or
3 extend my analysis, but this gives me comfort
4 that I can rely on that relationship and just
5 rely on the local ratings for the whole time
6 period.

7 Q. Now, of course, during all stages of
8 this time period from 1999 through 2003, from
9 2003 onward there have been various -- I mean,
10 undoubtedly as there always are, various market
11 changes that may affect viewership.

12 Would you agree with that?

13 A. I think so.

14 Q. And is there any reason that those
15 market changes reflecting that -- that may
16 impact viewership would degrade this
17 relationship between local and distant
18 viewership, to your knowledge?

19 A. I don't believe so. I mean, that's
20 what my analysis shows, and that's what I hear
21 from media experts. And I don't have a reason
22 to believe that the relationship involved in
23 the distant ratings will change over time.

24 Q. Does the lack of distant viewership
25 data from 2004 through 2009 give you any

67

1 significant concerns?

2 A. No, it doesn't. Again, I wish I had
3 all the data, and I believe I would come to the
4 same conclusion. And I could have predicted
5 distant rating, right? Using the similar --
6 using the same model, I could have said I'm
7 predicting the model -- I'm sorry, I'm
8 predicting the distant viewership, and use
9 those to define relative value, but it would
10 give me something very, very similar, right?
11 It's, again, scaling the local rating value up
12 or down based on that formula.

13 But based on my statistical analysis
14 and based on my consultation with John Sanders,
15 I'm confident in the assumption that I can rely
16 on local ratings for all the years.

17 Q. If you could please turn to page 29 of
18 your written direct testimony. That's
19 Exhibit 7000.

20 In your opinion as an economist, based
21 both on your analyses and based on your
22 experience, judgment, and common sense, does
23 this table represent a reasonable and reliable
24 allocations of shares in the Devotional
25 category as between the SDC and IPG programs?

68

1 A. Yes, it does.

2 JUDGE STRICKLER: I have a question
3 for you while we have the pages open, just to
4 the next page.

5 THE WITNESS: Please.

6 JUDGE STRICKLER: Page 30. Where
7 would we find -- just so the record is clear,
8 where would you find the standard error on your
9 Exhibit 3 on page 30? For the different
10 models?

11 THE WITNESS: So if you -- if you look
12 at the values in the parentheses, those are the
13 t-statistics, which is the value you get if you
14 divide the coefficient by the standard error.

15 So in model 1, local rating has .008
16 as the estimate. I'm not presenting a standard
17 error, but when you divide that .008 by that
18 standard error, you get that number 9.84. So
19 you can retrieve the standard error by simple
20 multiplication.

21 JUDGE STRICKLER: So the standard
22 error is not located here on the chart; you
23 have to do the math?

24 THE WITNESS: Yeah, you have to do the
25 math. But it -- you know, we either present

69

1 standard error or present the t-statistic. So
2 seeing -- in these parentheses, if you see
3 values that are larger than 2 in absolute
4 terms, that tells you that it's a statistically
5 significant coefficient.

6 JUDGE STRICKLER: If it's larger than
7 2 within the parentheses?

8 THE WITNESS: Right.

9 JUDGE STRICKLER: The t-statistic?

10 THE WITNESS: Right.

11 JUDGE STRICKLER: Okay. Is that
12 typical to put in the t-statistic there in a
13 regression table as opposed to putting in the
14 standard error itself?

15 THE WITNESS: It's preference. I
16 mean, I could argue that this makes it a little
17 easier because it does the math for you.

18 JUDGE STRICKLER: What do you usually
19 do, put in the t-statistic?

20 THE WITNESS: T, yeah.

21 JUDGE STRICKLER: Thank you.

22 THE WITNESS: So that -- that
23 comparison with 2 is basically your 95 percent
24 confidence interval, 99 percent confidence
25 interval. It's a rough -- rough measure.

70

1 BY MR. MacLEAN:

2 Q. And while we're on this chart, if I
3 can, while we're on this chart, if you -- just
4 to make it clear what we're looking at, if you
5 look at the Year (Trend) line, the trend
6 variable across the -- basically the second
7 row, and you get statistically insignificant
8 coefficients for the trend; is that correct?

9 A. That's correct. So one of the ways we
10 make this table easy to read is we put stars
11 when it's significant, right? That tells you
12 that the t-statistic is large as we just
13 discussed. And in the trend columns under
14 model 2, you don't see a star. And then,
15 equivalently, the values in the parentheses are
16 smaller, right? They're smaller than 2 in
17 absolute terms.

18 So that's telling you the same thing,
19 that these are statistically insignificant.

20 Q. And that's what -- it's the lack of
21 statistical significance that tells you that
22 there is not a statistically detectable trend;
23 is that correct?

24 A. Correct.

25 Q. And then you could say the same thing

71

1 in model -- in model 3 of each of these two
2 analyses using claimed programs and all matched
3 programs, you don't get statistically
4 significant coefficients for your dummies; is
5 that right?

6 A. That's correct.

7 Q. Which -- and that tells you something
8 similar, that over time is not making a
9 statistically detectable difference in the --
10 in the coefficients?

11 A. Correct.

12 MR. MacLEAN: Okay. Thank you. No
13 further questions.

14 JUDGE BARNETT: Before we do any
15 cross-examination, we're going to take a short
16 break, 15 minutes on the outside.

17 (A recess was taken at 10:51 a.m.,
18 after which the trial resumed at 11:11 a.m.)

19 JUDGE BARNETT: Please be seated.

20 Mr. Boydston.

21 MR. BOYDSTON: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. BOYDSTON:

24 Q. Good morning, Dr. Erdem. My name is
25 Brian Boydston. I'm counsel for the

72

1 Independent Producers Group.

2 A. Good morning.

3 Q. Now, in your work at this stage of the
4 proceedings, did you review any of the IPG
5 testimony from the initial proceeding in this
6 -- for these years?

7 A. I have reviewed Dr. Robinson's
8 testimony from the original proceeding, and
9 then I have reviewed the latest, obviously,
10 from the more recent expert.

11 Q. Okay. Did you review the rebuttal
12 testimony from Dr. Robinson from the initial
13 round of this proceeding then?

14 A. I might have. It has been a while.

15 Q. Okay. I just was distinguishing
16 between direct, Doctor, any direct testimony by
17 Dr. Robinson in the first round or -- and/or
18 rebuttal testimony.

19 Do you have a distinction in your head
20 about that?

21 A. I know the distinction. And I haven't
22 reviewed them recently, but I'm guessing I read
23 them in 2016.

24 Q. Okay. In preparation for this series,
25 or this proceeding, not the initial one,

<p style="text-align: right;">73</p> <p>1 correct?</p> <p>2 A. I reviewed them for the previous</p> <p>3 proceeding, not for the recent one.</p> <p>4 Q. Okay.</p> <p>5 A. Not for this proceeding.</p> <p>6 Q. The previous proceeding took place in</p> <p>7 2015. So you said you reviewed them in 2016.</p> <p>8 I gather that was after -- in the process of</p> <p>9 preparing for this proceeding, correct?</p> <p>10 A. Before the order to reopen the</p> <p>11 proceeding, but, I mean, I am happy to try to</p> <p>12 answer your questions.</p> <p>13 Q. Okay. Did you review rebuttal</p> <p>14 testimony in the initial round of this</p> <p>15 proceeding from Raul Galaz?</p> <p>16 A. I read it, briefly.</p> <p>17 Q. And what about Mr. Egan?</p> <p>18 A. No, I haven't.</p> <p>19 Q. Okay.</p> <p>20 MR. BOYDSTON: Your Honor, may I</p> <p>21 approach? Our binder is not up there, so I</p> <p>22 just want to put our binder up there.</p> <p>23 JUDGE BARNETT: Certainly.</p> <p>24 BY MR. BOYDSTON:</p> <p>25 Q. I apologize. That binder is a little</p>	<p style="text-align: right;">75</p> <p>1 itself.</p> <p>2 A. So is it normal not to have anything</p> <p>3 between 9003 and 9004?</p> <p>4 Q. Well, no, it wouldn't be, but I'm not</p> <p>5 asking about that right now. I'm talking about</p> <p>6 23, not 3. So it would be about three-quarters</p> <p>7 -- or two-thirds of the way through the binder.</p> <p>8 A. Okay. I have got it.</p> <p>9 JUDGE STRICKLER: What is the tab</p> <p>10 number?</p> <p>11 MR. BOYDSTON: 23. It is</p> <p>12 Exhibit 9023, but when we tried to cram four</p> <p>13 numbers on that little tab, it was hard to</p> <p>14 read, so I decided we would stick with two</p> <p>15 digits and just write in the 90 on the page.</p> <p>16 BY MR. BOYDSTON:</p> <p>17 Q. And do you recognize that or does that</p> <p>18 look familiar in some respects to the --</p> <p>19 A. It looks familiar, yep. This is</p> <p>20 Dr. Robinson's testimony.</p> <p>21 Q. Okay. Now, if you could take a look</p> <p>22 at page 8 of that. There is a paragraph</p> <p>23 entitled 11. Do you see that?</p> <p>24 A. I do.</p> <p>25 Q. And just take a second, if you would,</p>
<p style="text-align: right;">74</p> <p>1 tight. And if the pages come out of the</p> <p>2 binder, you can leave it like that and I will</p> <p>3 fix it at a break.</p> <p>4 Before I get into the next point,</p> <p>5 though, would it be fair to say that one of the</p> <p>6 key parts or key premises of your methodology</p> <p>7 is that there -- that you can't establish and</p> <p>8 that there is a correlation between local and</p> <p>9 distant ratings?</p> <p>10 A. That's correct.</p> <p>11 Q. Okay. And that seems to me to be a</p> <p>12 very significant premise or linchpin to your</p> <p>13 methodology, correct?</p> <p>14 A. It's supported by my statistical</p> <p>15 analysis.</p> <p>16 Q. I understand. But it is sort of the</p> <p>17 central point of your analysis that leads you</p> <p>18 to the rest of your conclusions, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. Now, with regard to -- if I</p> <p>21 could ask you to take a look at that binder</p> <p>22 that's in front of you at what has been marked</p> <p>23 as 9023. The tab itself says 2-3 for short, so</p> <p>24 it's going to be towards the bottom of that.</p> <p>25 And then it says 9023 on the actual page</p>	<p style="text-align: right;">76</p> <p>1 to read that paragraph and then let me know</p> <p>2 when you have read it.</p> <p>3 A. I read it.</p> <p>4 Q. Okay. And then she continues on the</p> <p>5 same subject at page 23, so if I could ask you</p> <p>6 to look at pages -- go to page 23 and start at</p> <p>7 the bottom of the page where the text begins,</p> <p>8 and the paragraph 34, and just review through</p> <p>9 paragraph 36 on page 25.</p> <p>10 A. I read it.</p> <p>11 Q. Thank you. Now, in your preparation</p> <p>12 for this round of this proceeding, did some of</p> <p>13 the work that you did attempt to address those</p> <p>14 criticisms that are at those -- or those</p> <p>15 observations or criticisms, whatever you want</p> <p>16 to call them, that Dr. Robinson made at those</p> <p>17 pages?</p> <p>18 A. Yes. And I can explain. I see that</p> <p>19 Dr. Robinson mentions that I rely on only data</p> <p>20 from February 1999, which I have addressed. I</p> <p>21 have access to more sweep months for 1999</p> <p>22 through 2003. So in total I might have</p> <p>23 received 10 -- 9, 10 additional sweep months of</p> <p>24 rating data.</p> <p>25 Q. Okay. And did you feel like using</p>

77

1 that incorporating into your work responded to
2 the observations and criticisms of the pages
3 we're talking about?

4 A. I do. And, for example, she mentions
5 me having only 13 alterations in that
6 correlation analysis. And in my revised
7 analysis, I have a total of 60 records. In my
8 regression analysis for the claims and for all
9 matched, I have 104.

10 So I see that as a significant
11 improvement over the limitation from my
12 original report.

13 Q. Let me focus on that answer just if I
14 could before I continue down this other path
15 because I wanted to get that clear.

16 You said you have, with the current
17 data you are using, you have 60 measurements,
18 correct?

19 A. Correct.

20 Q. What is that very specifically? I
21 think I know, but I want to nail it down.

22 Does that mean you have -- well, go
23 ahead, if you would.

24 A. So each one represents an SDC or IPG
25 claim program in a given sweep month. And in

78

1 the regression I create an average value over
2 four sweep months or, if I have two, three,
3 over two or three sweep months for each
4 program, and each one becomes a unit of
5 alteration in my regression.

6 Q. But the 60 measurements we're talking
7 about, is that a circumstance in which a
8 Nielsen diary household put down in their diary
9 that they were watching either an IPG or an SDC
10 program?

11 A. It is aggregated. And so these are
12 seven tables in RODPs, give you a national
13 estimate for each program. It might say 700
14 club annual -- well, rating for that sweep
15 month, 2 percent, and which is an estimate for
16 the national local rating.

17 So Nielsen aggregates all of the data
18 they get from sampled units to this national
19 estimate, which I use. So I don't deal with
20 the -- the raw underlying data.

21 Q. But your understanding is that where
22 the raw underlying data comes from is certainly
23 in Nielsen diary, correct?

24 A. Correct.

25 Q. And within this scope there are 60

79

1 such Nielsen diary entries, correct?

2 A. In aggregated form, and there are
3 actually more. For each sweep month, I may
4 have 700 club, right, 2 percent, 2 percent, and
5 so on. And the number I use here is an average
6 for that year.

7 And I do that annualization because
8 the HHVH data I have is annual.

9 Q. And, again, this is for the years 1999
10 through 2003, correct?

11 A. Correct.

12 Q. Do you have an estimate of what the
13 total number of broadcasts for those years were
14 for IPG programs and SDC programs?

15 A. I am not sure. It could be hundreds.
16 Could be thousands.

17 Q. Would it surprise you if I suggested
18 that the number of IPG broadcasts for 1999
19 through 2003 was 194,000 and change? Would
20 that be something within what you would expect?

21 A. Possible.

22 Q. Okay. Going back to the document that
23 you have in front of you, please take a look at
24 page 15, if you would, and just if you read the
25 first sentence of paragraph 21 there.

80

1 A. I did.

2 Q. And you see there that Dr. Robinson is
3 making an observation that the primary goal for
4 a CSO is the attraction and retention of
5 subscribers.

6 Do you agree with that observation?

7 A. Yes.

8 Q. Now, have you reviewed testimony from
9 past proceedings, not just this one, and not
10 just the first round of this one, but past
11 proceedings before the CRB and the CARP and
12 those entities? I know it's a very general
13 question.

14 A. It is a very general question, but,
15 for example, I read the 2000-2003 decision by
16 the Judges. That's one I recall.

17 Q. Okay. Have you ever reviewed the
18 decision in the distribution of 1998 and 1999
19 cable royalty funds from two thousand -- the
20 decision was published in the Federal Register
21 in 2004. Does that ring a bell?

22 A. I don't recall.

23 MR. BOYDSTON: Your Honor, may I
24 present the witness with a copy of that
25 decision to see if he recalls it?

<p style="text-align: right;">81</p> <p>1 JUDGE BARNETT: You may.</p> <p>2 MR. BOYDSTON: And I have copies of</p> <p>3 it, if anyone else wants one. I will certainly</p> <p>4 present them to counsel. I don't know if the</p> <p>5 Judges want to see one yet or not.</p> <p>6 JUDGE STRICKLER: If you have an extra</p> <p>7 one. Is this a Phase I or Phase II?</p> <p>8 MR. BOYDSTON: This was Phase I.</p> <p>9 JUDGE BARNETT: Thank you.</p> <p>10 MR. BOYDSTON: Pardon my reach. And</p> <p>11 while I'm passing them out, certainly take an</p> <p>12 opportunity to look at that.</p> <p>13 BY MR. BOYDSTON:</p> <p>14 Q. Okay. And obviously I don't -- I'm</p> <p>15 not asking you to read the entire thing right</p> <p>16 here, but just I'm wondering if you could take</p> <p>17 a look at it sufficient to determine whether or</p> <p>18 not you can recall looking at this before or</p> <p>19 not?</p> <p>20 A. I don't recall.</p> <p>21 Q. Okay. Let me direct your attention to</p> <p>22 a couple of things that might trigger your</p> <p>23 memory.</p> <p>24 At page 3613 -- and the number is in</p> <p>25 the upper right-hand corner on some pages, and</p>	<p style="text-align: right;">83</p> <p>1 retention. And you agreed with that -- with</p> <p>2 that observation.</p> <p>3 In this decision it appears to be</p> <p>4 saying that the Nielsen study -- the view</p> <p>5 expressed in this decision is that the Nielsen</p> <p>6 study doesn't really go to that because it is</p> <p>7 not looking at what the CSOs themselves are</p> <p>8 valuing.</p> <p>9 Did you take that into consideration</p> <p>10 in terms of your -- pursuing your methodology?</p> <p>11 A. So my methodology deals with this</p> <p>12 concern because I don't purely rely on the</p> <p>13 Nielsen ratings. I combine Nielsen ratings</p> <p>14 with distant subscribers, which goes back to</p> <p>15 these arguments about, you know, what the CSO</p> <p>16 is trying to do.</p> <p>17 Obviously they are trying to attract</p> <p>18 and retain subscribers. In this case the</p> <p>19 relevant subscribers are the distant</p> <p>20 subscribers.</p> <p>21 And although I use local ratings, I</p> <p>22 use it to scale up the distant subscribers'</p> <p>23 value from CDC, which is the estimate of who</p> <p>24 has access to this content. So that is already</p> <p>25 taken care of in this methodology.</p>
<p style="text-align: right;">82</p> <p>1 the upper left-hand corner on others. This</p> <p>2 particular one is in the upper right-hand</p> <p>3 corner. It's 3613. There is a discussion</p> <p>4 there that I was going to direct your attention</p> <p>5 to.</p> <p>6 Are you at that page? What I was</p> <p>7 going to direct your attention to is on the</p> <p>8 left-hand column, about a little more than</p> <p>9 halfway down the page, there is a paragraph</p> <p>10 that begins with the words "after considering</p> <p>11 both the Bortz survey and the Nielsen study."</p> <p>12 Do you see that paragraph?</p> <p>13 A. Yep.</p> <p>14 Q. If you could read that paragraph and</p> <p>15 then the quotation that goes beneath it in</p> <p>16 small print.</p> <p>17 A. I have.</p> <p>18 Q. Does this ring a bell? Have you seen</p> <p>19 this passage or this argument before?</p> <p>20 A. I don't recall reading it, but I</p> <p>21 understand it. I can comment on it.</p> <p>22 Q. Okay. Well, we just looked at</p> <p>23 Ms. Robinson's report, page 15, where she said</p> <p>24 the primary goal here is to -- for the CSO is</p> <p>25 the attraction of subscribers and their</p>	<p style="text-align: right;">84</p> <p>1 Q. Okay. But even then, still, you would</p> <p>2 agree with me that the observation in this</p> <p>3 decision is that the CSOs aren't interested and</p> <p>4 don't make -- base their decision upon</p> <p>5 viewership. Correct? I mean, that's what the</p> <p>6 decision is saying, not necessarily what you</p> <p>7 said?</p> <p>8 A. I mean, I don't think this is saying</p> <p>9 they don't care about ratings or viewership,</p> <p>10 right? It is saying their primary goal is to</p> <p>11 attract subscribers.</p> <p>12 And I don't disagree with that. But I</p> <p>13 don't think these statements say they don't</p> <p>14 care about ratings.</p> <p>15 Q. Okay. Let me ask you to -- give me</p> <p>16 one moment. I am going to ask you to take a</p> <p>17 look at a different document.</p> <p>18 Please take a look at what's marked as</p> <p>19 21. It is actually 9021. And this document is</p> <p>20 the written testimony of Michael Egan in the</p> <p>21 first part of this proceeding.</p> <p>22 And I will specifically direct you to</p> <p>23 a particular page so you don't have to read the</p> <p>24 whole thing.</p> <p>25 Take a look at what has been --</p>

85

1 actually starting on page 6, if you will.
2 MR. MacLEAN: Objection. Your Honor,
3 I object to counsel showing to this witness
4 this exhibit because this witness, as the
5 witness has already said, that he does not
6 recall reviewing the testimony of Mr. Egan.

7 I think if he is going to use this
8 testimony to refresh recollection or something
9 like that, he needs to lay a foundation for
10 refreshing recollection and that foundation has
11 not been laid.

12 MR. BOYDSTON: I am introducing it to
13 impeach the statement that he just made that he
14 doesn't think that this was -- that the premise
15 I was talking about was, in fact, the case,
16 i.e., the premise being that CSOs do not value
17 viewership when they review or when they make
18 the decision to pay this permissive license.

19 He made that, in the context of our
20 prior document we were looking at, he made that
21 comment, so I'm going to point something out
22 that says to the contrary.

23 MR. MacLEAN: Your Honor, that's not
24 impeachment. That's using the testimony as a
25 book door to present testimony of a witness who

86

1 is not in evidence.

2 Impeachment would be using Dr. Erdem's
3 own words to impeach his testimony, not
4 presenting the testimony of some witness that
5 Dr. Erdem has already testified he does not
6 recall reviewing.

7 JUDGE BARNETT: Thank you. Let's cut
8 down on the narrative objections, counsel.

9 Sustained. You are exactly right, Mr.
10 MacLean.

11 BY MR. BOYDSTON:

12 Q. I will then -- let's see here -- go to
13 a different one.

14 Could I ask you to take a look at what
15 has been marked in the exhibit book there as
16 Exhibit 27. And that is testimony of Richard
17 Ducey in the '90 to '92 Phase I proceeding.

18 A. I have it in front of me.

19 Q. All right. Before I go on, I think --
20 and I believe with regard to Mr. Egan we were
21 looking at before, you said you didn't recall
22 if you reviewed him or not.

23 Did looking at that document refresh
24 your recollection if you did or didn't?

25 A. No. To the contrary, I don't recall

87

1 seeing this document.

2 Q. Mr. Egan's testimony you mean?

3 A. Mr. Egan's and Mr. Ducey's.

4 Q. Okay. Fair enough.

5 With regard to -- please take a look
6 at page 6 of Exhibit 27.

7 MR. MacLEAN: Your Honor, same
8 objection. I object to this exhibit being
9 shown to this witness as to the foundation for
10 impeachment.

11 JUDGE BARNETT: I haven't heard a
12 question yet.

13 MR. MacLEAN: I believe the question
14 was asking him to look at a page of the
15 document.

16 JUDGE BARNETT: I understand. I
17 haven't heard why.

18 THE WITNESS: I am good at looking at
19 pages.

20 (Laughter.)

21 BY MR. BOYDSTON:

22 Q. Again, just the first two paragraphs,
23 if you would let me know if you have already
24 done that.

25 A. Okay, I read it.

88

1 Q. The beginning of the second paragraph,
2 it says, "contrary to Mr. Sieber's suggestion,
3 the value of a cable network to subscribers and
4 the intensity of the subscriber interest in a
5 cable network are not measured by viewing."

6 Do you disagree with that statement?

7 A. So I don't know the context of this
8 report, but there is a distinction between what
9 we call Phase I and Phase II.

10 So in Phase I, when cable operators
11 may be making different kinds of decisions
12 about which stations to retransmit, and as a
13 whole or just a single one, they may be going
14 -- they may be using an approach where they
15 know what the viewers want to see and how they
16 are going to attract subscribers.

17 But in Phase II, when we're dealing
18 with content like Devotional, where the content
19 is homogeneous, it is the right way to look at
20 viewership. That's how we can understand the
21 differentiators, how demand changes for a
22 specific program within the Devotional
23 category.

24 When you go to the Phase I question, I
25 mean, that's a very different question.

89

91

1 Q. Okay. And my general question here is
2 why? And you kind of implied some answers. So
3 I want to try and get more to the heart of it.

4 You seem to be suggesting that when
5 we're in Phase II and we're talking about
6 distinctions between programs, that you said
7 that these Devotional programs are homogeneous.

8 So is your point that at Phase II a
9 cable system operator somehow isn't going to --
10 is going to want to know what ratings are for a
11 particular program as opposed to -- well, I
12 don't -- I guess I should withdraw the
13 question.

14 A. I mean --

15 Q. You use the term homogeneous. Please
16 explain to me, rather than me making it up,
17 what you mean by that distinction?

18 A. Homogeneous meaning the programs we
19 are considering under the Devotional category
20 are similar in nature. Right? They are --
21 they can be -- one program can be considered as
22 a substitute for another. Right?

23 If I am a religious person, I'm
24 interested in that content. And within the
25 Devotional category, I may like A versus B.

90

1 That's why building this analysis from what
2 drives, you know, subscribers and what drives
3 cable operators makes sense, and that driver
4 starts with the consumer's demand. Right?

5 So within the Devotional, maybe within
6 other categories, it may make sense to look at
7 how viewers see different content differently
8 and what they pay for it.

9 But once you scale up to a category
10 like a whole Devotional category, a whole
11 sports category, you want to look at CSOs other
12 drivers, you know, what -- how they make
13 decisions.

14 JUDGE FEDER: Dr. Erdem, is this an
15 example of the economic term derived demand?

16 THE WITNESS: Correct. I mean, you
17 are going back to what -- how this market --
18 why this market is out there, and how we see
19 the data we see.

20 And that goes from -- that goes to the
21 individual. Right? We are all making
22 decisions about which stations you want, which
23 bundles you want. That drives how networks
24 build their stations and then that drives how
25 cable operators build their bundles.

1 So -- and at the lowest level, it is
2 the individual that is creating this database
3 we're looking at.

4 BY MR. BOYDSTON:

5 Q. Well, to the extent that you might --
6 to the extent that a cable system operator
7 isn't interested in ratings when they decide
8 which station to pay a fee for, you seem to be
9 suggesting that factor is -- makes sense at a
10 category-by-category Phase I decision-making
11 process, is that what you are saying, or it has
12 some, some influence at a Stage I -- Phase I
13 analysis or decision-making process; is that
14 what you are saying?

15 A. Can you repeat the question?

16 Q. Yeah, I'm sorry. I was all over the
17 place.

18 With regard to this notion as to
19 whether or not a CSO is influenced by ratings
20 in terms of deciding upon value of which
21 station he is going to purchase or pay the fee
22 for, you seem to suggest that that may be a
23 rational thing to look at in Phase I, or the
24 allocation phase, correct?

25 A. So in Phase I, we just had in the

92

1 other proceeding studies like the Bortz survey,
2 for example, tell us at a high level how these
3 CSOs make their decisions. Correct?

4 Q. And they don't -- and then they -- and
5 what that basically says is they don't value
6 ratings very highly in making that decision,
7 correct?

8 A. I don't think that's saying they don't
9 value viewership. It is just saying, if I have
10 to pick a methodology, I will pick a
11 methodology like the Bortz survey. Right? It
12 is all relative.

13 Q. Okay. But, I mean, as --

14 A. I mean, and then I have argued in the
15 past why using viewership in the allocation
16 phase wouldn't be appropriate.

17 Q. Okay. Fair enough. But we were
18 looking at this testimony where the person from
19 this field says that CSOs are not -- they don't
20 make their decision based upon viewing. That's
21 what he says.

22 And --

23 MR. MacLEAN: Objection, Your Honor.
24 This is a back door, Your Honor. The counsel
25 is testifying as to what another witness has

93

1 testified in a prior proceeding.

2 JUDGE BARNETT: Sustained.

3 MR. BOYDSTON: Well, I am just
4 repeating what was in there. I am not
5 testifying myself. I am just reading what was
6 there just as a foundation for the question.
7 BY MR. BOYDSTON:

8 Q. And really what I am getting at here
9 is why is it that you think that it does -- if
10 a cable system operator doesn't value ratings
11 and viewing information when they make their
12 decision, how is that appropriate to, you know,
13 accept that reality at Phase I and not here?
14 What's the difference between the two
15 processes?

16 Obviously at Phase I, the Judges are
17 dividing up money between categories, religious
18 programming, regular programming, sports. At
19 this level they are dividing up based upon
20 specific programs.

21 If a cable system operator doesn't
22 value ratings and viewership, and they say that
23 without categorizing Phase I or Phase II, they
24 just say it generally, why is that not
25 significant here in Phase II?

94

1 A. So I use distant subscribers. I am
2 not ignoring that information that is coming
3 down from that Phase I decision-making, which
4 is retaining and attracting subscribers in the
5 distant market. So I incorporate that.

6 And another way of explaining this is
7 when cable operators are deciding to retransmit
8 a station, that comes as a whole bundle.
9 Right? They don't have power to change or
10 replace any content on that whole station.

11 And that makes it difficult with the
12 data you have to explain which of the programs
13 they value on that one station, or maybe a set
14 of stations. But you can use this, you know,
15 drive demand approach to see what consumers
16 value. And that feeds into their -- their
17 decisions to retransmit a station or a set of
18 stations.

19 And --

20 Q. And when you say they, you mean the
21 CSOs?

22 A. Correct. So there is no other or
23 there is no better data to distinguish Program
24 A from Program B in this proceeding than --
25 than ratings.

95

1 Q. Okay. So essentially what you're
2 saying is maybe CSOs say they don't look at
3 ratings when they make their decisions, but we
4 don't have any data other than ratings to
5 distinguish between programs?

6 A. And I cannot imagine a better data.

7 MR. MacLEAN: Objection. I object to
8 the premise of the question. That's not a --
9 lack of foundation.

10 MR. BOYDSTON: Well, I think the
11 witness just agreed with you in his answer, or
12 agreed to the premise with his answer.

13 JUDGE BARNETT: Overruled.

14 MR. BOYDSTON: Your Honor, at this
15 point I would like to move to admit Exhibit 27.

16 JUDGE BARNETT: On what basis?

17 MR. BOYDSTON: On the grounds that it
18 expresses a view which, you know, is what we
19 have been discussing here, and I think that it
20 is part of the record of proceedings before
21 this panel and its predecessors.

22 And the testimony by Mr. Ducey goes
23 right to the heart of this question about --
24 that I have been asking the witness about and
25 that was raised in the previous exhibit, which

96

1 was Ms. Robinson's written testimony.

2 MR. MacLEAN: Objection, Your Honor.
3 This evidence is not admissible under 37 CFR
4 Section 351.10(g) which limits evidence on
5 cross-examination of exhibits not previously
6 disclosed to impeachment. This is not
7 impeachment.

8 JUDGE BARNETT: The objection is
9 sustained.

10 MR. BOYDSTON: Well, Your Honor --

11 JUDGE BARNETT: The Exhibit 9027 is
12 rejected.

13 (Exhibit 9027 was rejected from
14 evidence.)

15 MR. BOYDSTON: Well, I will also like
16 to move to admit the testimony of Laura
17 Robinson that we were referring to before,
18 which is Exhibit 9023, which I asked the
19 witness about and the witness said that he had
20 reviewed that and then it was a factor in his
21 preparation for his views now.

22 MR. MacLEAN: Objection, Your Honor.
23 It is not impeachment.

24 JUDGE BARNETT: Sustained.

25 Dr. Robinson's testimony, give me the number

<p style="text-align: right;">97</p> <p>1 again. 27 --</p> <p>2 MR. BOYDSTON: 9023.</p> <p>3 JUDGE BARNETT: 9023 is rejected.</p> <p>4 (Exhibit 9023 was rejected from</p> <p>5 evidence.)</p> <p>6 BY MR. BOYDSTON:</p> <p>7 Q. Did you review IPG's direct statement</p> <p>8 in this round of these proceedings?</p> <p>9 A. Dr. Cowen's?</p> <p>10 Q. That was part of it, yes.</p> <p>11 A. Yes.</p> <p>12 Q. And did you review the rest of it, not</p> <p>13 just Dr. Cowan's portion of it, but the general</p> <p>14 part of IPG's written direct statement?</p> <p>15 A. I did.</p> <p>16 Q. And did you take into consideration --</p> <p>17 and I am not asking you about your criticism of</p> <p>18 Dr. Cowan and his conclusions.</p> <p>19 But outside of that, did you take into</p> <p>20 consideration what was in the IPG written</p> <p>21 direct statement in terms of coming up with</p> <p>22 your report?</p> <p>23 MR. OLANIRAN: Objection, Your Honor.</p> <p>24 Exhibit 9005, if I am correct about what Mr.</p> <p>25 Boydston is referring to in his question, is</p>	<p style="text-align: right;">99</p> <p>1 we're using, or that you're using, I should</p> <p>2 say.</p> <p>3 MR. MacLEAN: Objection, Your Honor.</p> <p>4 I am not aware of this being in IPG's written</p> <p>5 direct statement. So I object for lack of</p> <p>6 foundation.</p> <p>7 MR. OLANIRAN: Same objection.</p> <p>8 MR. BOYDSTON: Well, I believe it was</p> <p>9 in the Raul Galaz portion of the direct</p> <p>10 statement, which was part --</p> <p>11 MR. MacLEAN: There is no Raul Galaz</p> <p>12 portion of the written direct statement, of</p> <p>13 IPG's written direct statement in this case.</p> <p>14 MR. BOYDSTON: I stand corrected. I</p> <p>15 made a mistake. I apologize. I stand</p> <p>16 corrected. Withdraw the question.</p> <p>17 JUDGE BARNETT: Sustained, but not</p> <p>18 necessary since the question is withdrawn.</p> <p>19 BY MR. BOYDSTON:</p> <p>20 Q. Have you ever seen or been advised of</p> <p>21 any testimony before the CRB or the CARP by a</p> <p>22 cable system operator in which he said or she</p> <p>23 said that they do look at ratings when they</p> <p>24 make a decision as to whether or not to pay the</p> <p>25 licensing fee?</p>
<p style="text-align: right;">98</p> <p>1 not a part of this record. It was excluded</p> <p>2 from the record. So I am not sure why he is --</p> <p>3 MR. BOYDSTON: Well, I am not asking</p> <p>4 to admit it. I am just asking if he looked at</p> <p>5 it.</p> <p>6 JUDGE BARNETT: The initial question</p> <p>7 is not objectionable.</p> <p>8 BY MR. BOYDSTON:</p> <p>9 Q. So the question, yeah, I don't think</p> <p>10 -- I don't know if you answered on the record</p> <p>11 or not.</p> <p>12 Did you look at the -- again, not</p> <p>13 Dr. Cowan's portion of it, leaving that out of</p> <p>14 these proceedings, but did you look at the rest</p> <p>15 of it?</p> <p>16 A. I did at some point and I am happy to</p> <p>17 answer your questions.</p> <p>18 Q. Okay. And in looking at -- in</p> <p>19 preparing your -- excuse me.</p> <p>20 In preparing your position that you</p> <p>21 have been expressing today, did you take the</p> <p>22 points therein into consideration?</p> <p>23 A. Which ones, for example?</p> <p>24 Q. Well, for example, the fact that there</p> <p>25 is a high incidence of zero viewing in the data</p>	<p style="text-align: right;">100</p> <p>1 A. I consulted with John Sanders.</p> <p>2 Q. Okay. Was Mr. Sanders ever a cable</p> <p>3 system operator or worked for one, as far as</p> <p>4 you know?</p> <p>5 A. Well, he has been working in this</p> <p>6 industry for a long time. That might be a</p> <p>7 question for him.</p> <p>8 Q. But as far as -- I mean, so you don't</p> <p>9 know whether or not he was ever working for a</p> <p>10 cable system operator or not?</p> <p>11 A. I don't recall.</p> <p>12 Q. Okay. And other than Mr. Sanders, you</p> <p>13 don't know of any other cable system operators</p> <p>14 ever testified that they looked at ratings when</p> <p>15 making a decision whether or not to pay this</p> <p>16 license?</p> <p>17 A. I don't recall.</p> <p>18 Q. Now, with regard to your methodology,</p> <p>19 as I said sort of at the top of the</p> <p>20 questioning, clearly the relationship between</p> <p>21 local and distant ratings is a linchpin or a</p> <p>22 very significant part of your process, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And I think it is an accurate</p> <p>25 characterization you said that you use those</p>

101

1 local ratings to predict distant viewership for
2 both cable and satellite, correct?

3 A. I don't predict distant viewership. I
4 just use that regression model to establish the
5 relationship. And then I use the local ratings
6 in the second stage of my calculations.

7 Q. Okay. And you testified that you
8 don't see any reason why -- to conclude that
9 ratings in a local market would be
10 significantly different than ratings in a
11 distant market. I believe that was your
12 testimony. Correct?

13 A. Correct.

14 Q. Now, understanding that, isn't it true
15 that the program line-up, the programming in a
16 local market, will differ from that in a
17 distant market because of the nature of the way
18 the different stations are chosen, correct?

19 A. Correct.

20 Q. So that would seem to suggest that
21 also -- well, in addition to that, the line-up
22 in a cable system is going to be different than
23 a line-up in a satellite system in terms of the
24 various stations offered, correct?

25 A. True.

102

1 Q. And I think you also said that you had
2 -- well, I don't know if you said this or not.

3 Do you have any basis to conclude or
4 to believe that there is a difference between
5 the viewing preferences of satellite customers
6 versus cable customers?

7 A. I haven't investigated that question.
8 And the Nielsen ratings I rely on doesn't
9 distinguish satellite versus cable ratings.

10 Q. Okay. So you don't really know one
11 way or the other on that distinction of cable
12 and satellite?

13 A. Correct.

14 Q. Okay. Well, then focusing just on the
15 distinction between local and distant, there
16 are different line-ups, we agree.

17 Now, if there are different line-ups,
18 wouldn't you expect there to be some difference
19 in ratings, since we're talking about different
20 line-ups of programming?

21 A. That's true. I mean, local ratings
22 and distant ratings may be different.

23 Q. Well, and yet at the same time you
24 still feel confident that there is a
25 correlation between local and distant ratings

103

1 anyway?

2 A. Well, it is a scaling issue, right?
3 So if a program has 2 percent local rating, it
4 may have 1.5 percent distant rating.

5 And I'm not trying to predict the
6 precise value for distant rating or the
7 household viewing hours for distant rating. I
8 am just looking at that scaling factor within
9 local and distant.

10 Q. Okay.

11 A. And then using a local in the second
12 stage, as I said, but I could have said I'm
13 predicting distant rating based on that scale.
14 Right? I could have predicted a distant rating
15 for every program in my data and used that, but
16 that wouldn't give me the same results, right,
17 because you are just scaling every number for,
18 in this case IPG and SDC by that coefficient,
19 and that would cancel out in that shared
20 calculation.

21 So that would be misleading if someone
22 says I'm predicting distant ratings for you
23 using this relationship from older years
24 because that is -- that is going to give you
25 the same result. That coefficient will cancel

104

1 out.

2 Q. Okay. But at bedrock we're talking
3 about different line-ups of programming between
4 local and distant?

5 A. Correct.

6 Q. Now, in terms of the data that you are
7 using, as you said, you are relying on the
8 sweeps reports ratings. Correct? So we're not
9 talking about local viewing, 24 hours a day,
10 seven days a week. We're just talking about
11 the 16 weeks out of the year that are sweeps
12 weeks. Correct?

13 A. That's correct.

14 Q. And you don't have all those reports.
15 You only have the February ones. So we're just
16 talking about the February ones for the years,
17 I think, '99 to 2003, correct?

18 A. I have more now.

19 Q. Okay.

20 A. So --

21 Q. But -- well, you have -- you have
22 additional information that was found by one of
23 the SDC programmers, correct?

24 A. One of the SDC claimants.

25 Q. Right. But that was not the full

105

1 report. It was just the --
 2 A. Just the summary page which I rely on,
 3 correct.
 4 Q. Right. And so in addition to that,
 5 you mentioned, I think, that -- I can't
 6 remember if counsel mentioned or you mentioned
 7 it -- that the sweeps weeks also exclude
 8 certain things. They exclude specials and
 9 things like that, correct?
 10 A. That's correct.
 11 Q. And so they don't measure all the
 12 Devotional broadcasts because some of those
 13 specials and things like that are not in there?
 14 A. That is correct.
 15 Q. And then your incorporation of distant
 16 subscribers, I think your point is that you
 17 take the average local rating, which is, when
 18 there is a rating, it is 0.1, correct?
 19 A. What do you mean 0.1?
 20 Q. Well, when you take the average --
 21 when you take the average local rating, where
 22 you have a rating, it's 0.1, correct, for each
 23 program, or that's the maximum?
 24 A. Well, it could be anything. Right?
 25 So --

106

1 Q. But in actual practice in this data,
 2 in these data, that's what they are, correct?
 3 A. It sounds like you are referring to
 4 the lowest value that can appear in the RODPs.
 5 That is 0.1 percent, correct.
 6 So anything below that number is too
 7 small and Nielsen doesn't report it.
 8 Q. Right. So you take those, where you
 9 have a 0.1, you take those, and then you divide
 10 that into distant subscribers, correct?
 11 A. That is not correct.
 12 Q. Okay.
 13 A. So I create the distant rating measure
 14 using HHVH as my numerator and distant
 15 subscribers as my denominator.
 16 Q. And from that you're postulating what
 17 the portion of distant subscribers were
 18 actually viewing, how many were actually
 19 viewing the program, correct?
 20 A. That's correct.
 21 Q. So it seems like the presumption that
 22 you have there is that the identical rating
 23 that exists locally will also exist for the
 24 distant cable subscribers and the distant
 25 satellite subscribers as well, correct?

107

1 A. Can you ask the question again?
 2 Q. Sure. It seems like the presumption
 3 you are working on is that that local rating
 4 will then -- that same rating will exist for
 5 your purposes for distant cable viewers and
 6 distant -- I should say subscribers -- and
 7 distant satellite subscribers, correct?
 8 A. So let me put it in my words.
 9 Q. Sure.
 10 A. I have local ratings from the RODPs,
 11 and -- which is a percent of the U.S. markets
 12 that view that programming. And then I create
 13 a distant rating measure using the HHVH data
 14 for 1999 through 2003.
 15 And so that is an absolute number of
 16 how many viewers on average had access to that
 17 programming. To define a distant rating
 18 measure, I use that number as my numerator.
 19 And I use the distant subscribers from CDC as
 20 the denominator to get a percentage of how much
 21 of that distant subscriber population is
 22 viewing a particular program.
 23 Q. And you --
 24 A. And then -- and then I am correlating
 25 them or running that regression to look at the

108

1 relationship.
 2 Q. And for both cable and satellite,
 3 correct?
 4 A. Well, there is only one database,
 5 right, for HHVH. It is not cable versus
 6 satellite. It is an average. Just like the
 7 Nielsen RODPs, it's an average. It doesn't
 8 distinguish cable versus satellite.
 9 So that first stage analysis is not
 10 specifically for cable or satellite.
 11 Q. Okay. So is it accurate that you
 12 don't consider -- you don't think it is
 13 unreasonable to use -- let me back up.
 14 The information, part of the
 15 information you use is the CDC data that's
 16 compiled regarding distant cable subscribers,
 17 correct?
 18 A. So CDC data gives us distant
 19 subscribers separately for cable and satellite.
 20 That's why you get different for both shares.
 21 Right? That's the driver of different shares.
 22 Q. Okay. You don't think it is
 23 unreasonable to utilize the CDC data in that
 24 regard, obviously, because you do it?
 25 A. Can you explain what you mean?

109

1 Q. Well, that's what -- if you use the
2 CDC data as you just described, presumably you
3 believe that's a reasonable way to use that
4 data, correct?

5 A. Correct.

6 Q. Now I want to ask you about the zero
7 viewing issue, which I think sometimes you
8 refer to -- or maybe always, I don't know --
9 you refer to it using a different phrase, I
10 believe, and just remind me what that phrase
11 you usually use is.

12 Non -- well, you know what I am
13 talking about when I say distant viewing --
14 excuse me, zero viewing?

15 A. I know what zero viewing means, yeah.

16 Q. Okay. Now, I believe you tried to
17 address this issue by taking different data
18 within the Nielsen RODP statistics, correct?

19 A. So I have -- I have an imputation in
20 my routine. And for some of the IPG and SDC
21 claimed programs, even if the R-7 table is
22 missing this national average rating, there are
23 detailed pages at the end of each report which
24 I use to impute those small numbers, you know,
25 it only affects at the end one program and --

110

1 to impute.

2 And so in these detailed pages, you
3 have access to how many households viewed it on
4 average and then you can come up with your own
5 estimate of rating for programs that have very
6 low ratings.

7 Q. So if the RODP information indicates
8 no major viewing for a particular broadcast, do
9 you then look to another part of that RODP
10 report to construct a figure for that, for that
11 where there is no viewing? Are you looking at
12 a total nationwide household viewing factor or
13 statistic or number?

14 A. It's all nationwide.

15 Q. Okay. And then you are dividing that
16 into the number of households served in the
17 particular instance?

18 A. Are you referring to the invitation I
19 just described?

20 Q. I don't know. I think so.

21 A. I don't know what you're asking.

22 Q. Okay. Well, what I am trying to get
23 at is, is you have -- you have the RODP
24 information. It shows no viewing. And then
25 you end up coming up with saying, well, okay,

111

1 there is no viewing according to the RODP but
2 now I have got one.

3 And in that process you are starting
4 out looking at the nationwide household viewing
5 for the particular broadcast, or for a
6 particular programming question, right?

7 A. Correct. I think you are referring to
8 that invitation.

9 Q. I think I am, too. I am just trying
10 to make sure I understand it.

11 A. Yeah. So because we have a limited
12 number of IPG and SDC claim programs, and I
13 have the time to go back to those detailed
14 pages and try to impute, and I explain it on
15 page 15 where this process actually assigns a
16 non-zero value eventually to James Robison's
17 Life Today claim by IPG for five years in cable
18 and four years in satellite.

19 And so if I didn't have that
20 invitation, I would have excluded James
21 Robison's Life Today for IPG.

22 Q. Okay. So if in 90 percent of the
23 circumstances the broadcast chose the zero
24 viewing, that means that you are imputing a
25 viewing measurement for 90 percent of those

112

1 broadcasts where there wasn't one to begin
2 with, correct?

3 A. No, that's not what I am saying. So I
4 don't know where your 90 percent is coming
5 from, but I am, in favor of IPG, I am imputing
6 a rating number for James Robison's Life Today,
7 so it is one program for five years in cable
8 and four years in satellite.

9 So this is -- it is not, again, at the
10 household level, it is not 90 percent of the
11 data. It is just one program.

12 Q. Okay.

13 A. And in favor of IPG.

14 Q. And what I meant by that is, wherever
15 there is a zero viewing indication, you are
16 coming up with a replacement for that based on
17 your analysis?

18 A. In this one instance.

19 JUDGE STRICKLER: By this one instance
20 you are referring again to this one program
21 here?

22 THE WITNESS: Yeah. So these -- and
23 if it is not clear, the R-7s have a cutoff.
24 Right? Below 0.1 percent, the rating is so
25 low, Nielsen says I will not produce this

113

1 number for you it's so low.

2 And if I had to deal with thousands of
3 programs, I wouldn't do this. But because I am
4 only looking at specific or limited number of
5 claimed programs here, I have the privilege to
6 spend some more time, dig into the detailed
7 Nielsen files, and see if I can get a number,
8 so I am more inclusive, more comprehensive in
9 my analysis.

10 And this effort helps with one
11 program, which would have been excluded if I
12 didn't spend this extra energy, and that's
13 James Robison Life Today. And --

14 JUDGE FEDER: So -- go ahead.

15 THE WITNESS: Go ahead. I'm sorry.

16 JUDGE FEDER: So are you essentially
17 performing the same calculation that Nielsen
18 would have performed if there had been higher
19 viewership?

20 THE WITNESS: That's the idea. That's
21 the idea.

22 JUDGE FEDER: With the same data?

23 THE WITNESS: It's the same data,
24 correct. So instead of looking at the summary,
25 I look at the details that create the summary.

114

1 BY MR. BOYDSTON:

2 Q. What if there are multiple zero
3 viewing broadcasts and there are not national
4 averages for that particular program?

5 A. So I am not too concerned. That can
6 happen. And for one or more of IPG or SDC
7 claimed programs, it may not be in the RODPs.
8 But these are regular programs that are not
9 regularly broadcast. They might be Christmas
10 specials that appear once or twice a year.

11 And I don't see -- I don't believe
12 they will have any significant impact on -- on
13 my methodology.

14 Q. Just generally speaking, doesn't the
15 zero viewing issue become a more difficult
16 issue to address when you're looking at smaller
17 and smaller numbers of broadcasts, a smaller
18 set of broadcasts, if you will?

19 A. So that's a fact. If it's a regular
20 program, and I don't have a rating for it, but
21 I don't -- and it doesn't affect IPG negatively
22 here because I'm imputing a local rating for
23 James Robison Life Today, and I think there is
24 only one other program for IPG, that's already
25 included.

115

1 Q. So are you using national average
2 local ratings across all broadcasts that were
3 retransmitted?

4 A. Correct. It's a national rating.

5 Q. Rather than on a station-by-station
6 basis?

7 A. Correct.

8 Q. Now, so you are looking at different
9 -- excuse me. You are looking at zero viewing
10 -- no, strike that.

11 JUDGE BARNETT: Is this a good time
12 for us to take a break?

13 MR. BOYDSTON: Sure.

14 JUDGE BARNETT: Okay. We will be at
15 recess until 1:00 o'clock.

16 (Whereupon, at 12:03 p.m., a lunch
17 recess was taken.)
18
19
20
21
22
23
24
25

116

1 AFTERNOON SESSION

2 (1:07 p.m.)

3 JUDGE BARNETT: Please be seated.

4 Mr. Boydston?

5 MR. BOYDSTON: Thank you, Your Honor.

6 BY MR. BOYDSTON:

7 Q. Dr. Erdem, when we broke, we were
8 talking about zero viewing and your efforts to
9 address concerns about zero viewing.

10 Now, I think we have -- there may be a
11 difference between what I'm thinking of in
12 terms of zero viewing and what you're thinking
13 of in terms of zero viewing. My interpretation
14 from your testimony is that -- let's take, for
15 example, just a hypothetical. Let's say the
16 700 Club, for instance, let's say it's
17 broadcast 100 times, and for -- amongst those
18 100 broadcasts nationwide, let's say, for
19 instance, in 90 situations it records a zero
20 viewing rating, but in 10, it records a rating
21 of some sort.

22 My understanding is that for your
23 analysis, you would then conclude that there's
24 not a zero viewing incidence with regard to the
25 700 club in that scenario because there were

117

1 ten times when there was viewing, correct?
 2 A. That's correct.
 3 Q. Okay. And so when you analyze a zero
 4 viewing problem, you're only considering the
 5 zero viewing problem like in the case of James
 6 Robison when all of the various -- all the
 7 available broadcasts showed zero viewing across
 8 the board, correct?

9 A. Correct. If it is with regard to the
 10 RODP R-7s, not observing a program in that
 11 table means either it was all zero viewing
 12 nationally on any station in -- you know, from
 13 any broadcast, or it didn't satisfy the
 14 reportability standards by Nielsen.

15 Q. Okay. And so as a result, in
 16 instances where you have a program, and like I
 17 said in the hypothetical, 700 Club with a
 18 hypothetical 100 broadcasts, as long as there
 19 was at least one broadcast that shows a -- a
 20 Nielsen rating nationwide, you don't -- you
 21 consider that not to be zero viewing?

22 A. So what the number you would end up
 23 using is the average over all of the sampling
 24 -- sampled households in that sweep month. You
 25 would get a non-zero number as average for that

118

1 sweep month.
 2 JUDGE STRICKLER: So averaging the
 3 zeros together with a positive number?

4 THE WITNESS: Correct. So if it's --
 5 you know, if you have 1,000 viewers in one
 6 instance and a bunch of zeros, then the average
 7 would be maybe a few hundred over multiple
 8 broadcasts. So you are using a national
 9 average for the whole sweep month over all
 10 types of households.

11 BY MR. BOYDSTON:

12 Q. Okay. And so you're essentially --
 13 well, strike that. I think that answers the
 14 question.

15 Now, did you calculate, you know, the
 16 impact of zero viewing if you consider all the
 17 instances of zero viewing? In other words, you
 18 don't -- with regard to a situation where there
 19 are 100 broadcasts and 90 instances of zero
 20 viewing, did you ever calculate the impact of
 21 those 90 instances of zero viewing?

22 A. So it's all hypothetical. I mean,
 23 what you're describing is not in my report. It
 24 doesn't affect my numbers. I don't have a zero
 25 viewing problem. I only had this one instance

119

1 where I could impute it from available data.

2 Q. Okay.

3 A. So there is no impact for me to look
 4 at because I don't see a problem.

5 Q. And, again, you're looking at it from
 6 a broadcast-by-broadcast zero viewing basis?

7 A. And that's the thing. I'm not doing a
 8 broadcast-by-broadcast analysis. I'm not using
 9 quarter-hour level data. I'm not using market
 10 level data. I'm not using broadcast. It's all
 11 national.

12 Q. Okay. So it sounds like you don't
 13 isolate whether or not one program might have
 14 10 percent zero viewing and another 90 percent
 15 zero viewing, correct?

16 A. I don't. That's correct.

17 Q. You make no distinction in that regard
 18 --

19 A. I don't average.

20 Q. Okay. Now, I think we discussed this
 21 before, but I -- and I think you mentioned that
 22 you are familiar with a 2000 to 2003 decision
 23 by the Judges, correct?

24 A. I did.

25 Q. And your -- I don't want to put words

120

1 in your mouth, but I think we covered this. In
 2 that decision, you acknowledge or you
 3 understand that in that decision that the
 4 Judges said that if you're going to use this
 5 Nielsen data, you're going to need to give an
 6 explanation of the significance of zero
 7 viewing, correct?

8 A. You might be referring to the HHVH
 9 data; is that correct?

10 Q. Well, I'm referring to the decision,
 11 you know, something that the Judges stated in
 12 that decision.

13 A. Yes.

14 Q. They made a statement to the effect
 15 that if you're going to use Nielsen data, you
 16 need to have someone like yourself come in and
 17 explain the significance of zero viewing.

18 Does that -- do you recall that? Do
 19 you understand that?

20 A. I would like to go and look at the
 21 paragraph, as we do in other cases, but you
 22 might be referring to a zero viewing problem
 23 with the HHVH data, right? If you look at
 24 station by station, broadcast by broadcast,
 25 yes, you will see zeros.

<p style="text-align: right;">121</p> <p>1 But all I'm relying on, both on the 2 HHVH side and the R-7 side, is the annual 3 average. 4 Q. I understand. I'm not asking -- I'm 5 not really asking what you did to address the 6 issue. I'm just trying to establish you 7 understand that at some point it's an issue 8 that you needed to address in the first place? 9 A. Correct. And -- 10 Q. Okay. 11 A. And my way of addressing is relying on 12 annual averages for the national estimates. I 13 don't deal with market level or quarter-hour 14 level data. 15 Q. Okay. And -- 16 JUDGE STRICKLER: So, actually -- 17 excuse me -- so in your analysis, because you 18 do the averaging, you treat those zeros as true 19 zeros -- 20 THE WITNESS: Correct. 21 JUDGE STRICKLER: -- average them in, 22 not just zero because they're so low that they 23 fall below the Nielsen threshold? 24 THE WITNESS: Correct. 25 JUDGE STRICKLER: You treat them as</p>	<p style="text-align: right;">123</p> <p>1 of 2016 or about then? Do you recall that? 2 A. Correct. 3 Q. And do you recall that then WSG had to 4 correct its written direct statement and change 5 some of the figures in it? Do you recall that? 6 A. Who is WSG? 7 Q. I'm sorry, IPG. 8 A. Okay. 9 Q. Do you recall that then all the 10 parties resubmitted redirect statements in 11 October of that year, a couple months later? 12 Does that sound familiar? 13 A. Yes. 14 Q. So when you prepared your report to 15 submit in October of 2016, did you consider 16 what you had reviewed in the IPG initial report 17 in August of 2016? 18 MR. MacLEAN: Objection. I'm actually 19 a little vague on what this -- what's being 20 asked about here, but the SDC did not submit 21 any reports in October of 2016. So I'm -- I 22 guess objection, vague. 23 JUDGE BARNETT: Sustained. Can you 24 ask it a different way, Mr. Boydston? 25 MR. BOYDSTON: One moment.</p>
<p style="text-align: right;">122</p> <p>1 true zeros? 2 THE WITNESS: Correct. And Nielsen 3 automatically does this, right, when they 4 report for a sweep month rating. What they 5 mean is average over all the instances. So 6 they incorporate the zeros. 7 JUDGE STRICKLER: Thank you. 8 BY MR. BOYDSTON: 9 Q. You talked about the efforts that were 10 made to get more data. And I understand you 11 were part of the process of going to Nielsen 12 and trying to get additional data, correct? 13 A. Correct. 14 Q. And they were unable to provide it, 15 correct? 16 A. That's correct. 17 Q. And you weren't able to get any other 18 data from anywhere else, other than the one SDC 19 member who had the R-7 -- 20 A. That's correct. 21 Q. -- page, correct? 22 With regard to -- well, strike that. 23 You recall in this proceeding, in this 24 round of this proceeding, that the parties all 25 submitted written direct statements in August</p>	<p style="text-align: right;">124</p> <p>1 BY MR. BOYDSTON: 2 Q. I'll throw out the question for now. 3 MR. BOYDSTON: Your Honor, with regard 4 to the decision in the 1998-'99 cable royalty 5 funds, that Phase I decision which I showed to 6 the witness earlier, I guess -- I was going to 7 propose asking that it be admitted as an 8 exhibit. However, it's a former decision. So 9 I guess I'm in some way looking for a little 10 clarification. It seems to me like former 11 public decisions exist out there in the public 12 ether, and I don't need to make it an exhibit. 13 JUDGE BARNETT: We can take official 14 notice. 15 MR. BOYDSTON: Thank you, Your Honor. 16 So how do we characterize it officially? Is it 17 admitted as an exhibit on judicial notice or is 18 it just we take judicial -- 19 JUDGE BARNETT: It's taken on judicial 20 notice. It does not need to be admitted as an 21 exhibit. 22 MR. BOYDSTON: Perfect. It makes 23 perfect sense. 24 BY MR. BOYDSTON: 25 Q. Just a couple questions on the WGN</p>

125

1 issue, if you will. Now, you said that you did
2 not include WGN in your analysis because the
3 RODP reports didn't identify IPG programs that
4 were specials and things like that, correct?

5 A. That is correct.

6 Q. Now, isn't it true -- and I think you
7 would agree with me that -- well, I don't know.

8 Are you aware that WGN reaches about
9 50 percent of all subscribers?

10 A. Sure.

11 Q. So it's big, obviously?

12 A. It is.

13 Q. And are you aware that IPG programs
14 did -- were rebroadcast on WGN?

15 A. Yes, there were a couple.

16 Q. But they were picked up on RODP
17 because there are specials and things like
18 that, right?

19 A. Correct.

20 Q. Excuse me. So you made no calculation
21 as to -- you know, with regard to those WGN --
22 excuse me.

23 You made no calculation as to the
24 value of the IPG specials and other programs
25 that were retransmitted on WGN, correct?

126

1 A. I didn't do any additional
2 calculations, both for IPG or SDC. I have a
3 lengthy footnote on this. And what matters at
4 the end is compensable programming on WGN.

5 And there were only -- there was only
6 Miracles Now from SDC that was compensable and
7 existed under the RODPs. So I could have
8 included that. That would have favored SDC.
9 And because of the size of WGN, as mentioned, I
10 decided to take that out to be maybe favorable
11 for IPG or not favorable to SDC.

12 But at the end, there are programs
13 that are not rated both for IPG and SDC and
14 that are not compensable for both IPG and SDC.
15 And they don't have an impact on my proposed
16 shares. And I didn't propose any additional
17 analysis because they wouldn't be included in
18 my end result anyway because most of them are
19 not compensable.

20 Q. Well, and you made no calculation on
21 them one way or the other, correct?

22 A. I mean, the calculation is basically
23 how many broadcasts I found for the IPG
24 specials. That's explained in a footnote.

25 Q. Okay.

127

1 A. That number of broadcasts, I don't
2 have any analysis.

3 Q. Right. You did not calculate what the
4 ratings were -- you didn't take into
5 consideration what the ratings were for the IPG
6 specials that were on WGN, correct?

7 A. Because there are no ratings --

8 Q. But the answer is yes --

9 A. -- from Nielsen.

10 Q. -- correct?

11 A. That is correct, because there are no
12 ratings.

13 Q. Well, there's no ratings that were
14 picked up by RODP, correct?

15 A. Correct.

16 Q. -Now, I just want to clarify this in
17 terms of the data you have. For '99 to 2003,
18 previous, you just had February. For 2004 to
19 2009, you had all four RODPs, correct?

20 A. That's not correct. So I have full
21 RODPs now for 1999, and three total R-4 for
22 2000 and two total R-4 for 2001 through 2003.

23 Q. Okay. And then the local ratings
24 information appearing on the page R-7, isn't it
25 true that sometimes that's inconsistent with

128

1 the local ratings information that are
2 elsewhere on the RODPs?

3 A. I'm not sure what you're referring to.

4 Q. Okay. You note I'm referring to about
5 the page R-7 from the eight different reports
6 that you referred to as supplemental Nielsen
7 RODPs.

8 A. So they're inconsistent with which
9 ratings data?

10 Q. The other -- elsewhere in the -- data
11 elsewhere in the RODP reports.

12 A. I'm not aware of any analysis.

13 Q. All right. With -- I'm going to refer
14 to a different proceeding, the 2000-2003 remand
15 proceeding between the SDC and IPG. You're
16 familiar with that proceeding, correct?

17 A. I wasn't involved in it.

18 Q. Okay. You recall that it's on remand
19 now, and it's presently pending before the
20 Judges as another proceeding. Have you worked
21 on that or are you familiar with that?

22 A. I haven't worked on that.

23 Q. Okay. Do you have any knowledge of
24 the positions taken in that -- in that remand
25 proceeding?

129

1 A. No, I don't.
 2 Q. Now, with regard to the '99-2003 data
 3 that you're using, we've -- we talked about the
 4 60, I'll just say, data points at this point
 5 that you -- that you referred to.
 6 Now, I'm a little confused. It sounds
 7 to me -- my question is are we talking about 60
 8 different programs or 60 different individual
 9 broadcasts?
 10 A. Neither. So you may have -- this is
 11 longitudinal data, right? I have five years of
 12 data. I may have 700 Club in it five times, if
 13 it was rated every year. I may have another
 14 claimed program three times if it was rated
 15 only three out of five years. So it's a
 16 combination of program and year. So it's not
 17 by Claimant. It's not by broadcast. It's a
 18 combination of Claimant and year.
 19 Q. Meaning that over the years in
 20 question, there are 60 incidences in which an
 21 individual program has a measurement?
 22 A. That's correct. So, on average, you
 23 can say I have 12 records per year --
 24 Q. Okay.
 25 A. -- across IPG and SDC claimed

130

1 programs.
 2 Q. Okay.
 3 JUDGE FEDER: Let's be clear about
 4 what kind of measurement we're talking about
 5 here. Is this a measurement of the average
 6 viewing over a year or are these individual
 7 observations from the Nielsen data?
 8 THE WITNESS: It's the former. It's
 9 average over year. And I have to annualize it,
 10 even though I have four ratings over four sweep
 11 months for a given program, because the HHVH
 12 data I have is annual.
 13 So I need to make an apples-to-apples
 14 comparison, and because my distant rating
 15 measure is annual, I create an annual number
 16 from the four of the durations, which is an
 17 average over four sweep months. Let's say for
 18 700 Club. And then I may have 700 Club
 19 multiple years, which drives my total number of
 20 observations of 60.
 21 So a program may appear there twice,
 22 three times, five times, depending on how often
 23 they are in a given year. If a program appears
 24 only in two sweep months in a given year, I use
 25 the average over those. If it's over four, it's

131

1 an average over four. But it's annual.
 2 JUDGE FEDER: Okay.
 3 BY MR. BOYDSTON:
 4 Q. Now, we agreed at the beginning of
 5 your testimony that the linchpin of your
 6 methodology is that there's a relationship -- a
 7 correlation between local ratings and distant
 8 viewing, right?
 9 A. Correct.
 10 Q. Now, based on -- obviously then, to
 11 the extent that correlation is weakened, then
 12 the methodology is weakened. Fair enough? Or
 13 if there was a problem with the correlation,
 14 the correlation is insufficient, that goes
 15 directly to the methodology itself?
 16 A. And so, first, it sounds like
 17 hypothetically, and I don't know how you would
 18 measured weakened relationship, and second --
 19 Q. But it is --
 20 A. Yeah, I mean, I don't have any
 21 evidence in my work. I don't have any reason
 22 to believe that the relationship will change
 23 over time.
 24 Q. Okay. Now, in the initial round of
 25 proceedings, again, you just had February of

132

1 '99 so you just had one -- one RODP report to
 2 use, correct?
 3 A. For that first analysis, correct.
 4 Q. And now you have, I believe, 15,
 5 correct, spread across the years?
 6 A. Roughly, yeah.
 7 Q. Okay. So, basically, you're dealing
 8 with 15 times the number of local distance
 9 rating data in order to test the correlation in
 10 this round, correct?
 11 A. That's correct.
 12 Q. And back in the first round when you
 13 only had February of '99, I believe there were
 14 12 measurements that you had to work with,
 15 right?
 16 A. That's correct.
 17 Q. And now there are just 60, correct?
 18 A. Correct.
 19 Q. And so the average -- the average of
 20 the one month in the first round was 12; you
 21 had one month, you had 12 measurements,
 22 correct?
 23 A. Correct.
 24 Q. Now, you have 60 spread over five
 25 years, so if you make an average like that, it

133

1 would be 5 per year, correct? Well, you would
2 have 60 of them.

3 A. So I have 60 total.

4 Q. Right.

5 A. And as I explained, I have more -- you
6 said I have 15 times more reports. But because
7 I take average over 4 reports, the number of
8 observations in the regression is smaller than
9 the amount of reports I have. So on average I
10 still have 12, 13 records per year.

11 Q. But that's -- okay, I follow you. On
12 average that's what it is.

13 A. Yeah.

14 Q. And, again, I told you earlier that
15 would you be -- would you be surprised if just
16 the IPG broadcasts over those years alone were
17 190 some odd thousand, you said that wouldn't
18 surprise you, correct?

19 A. That's not inconsistent with what we
20 were discussing here.

21 Q. Okay. And I assume that you believe
22 that having these 60 measurements that you're
23 using is a sufficient number to extrapolate or
24 to use in your analysis.

25 A. For what I'm trying to do, yes.

134

1 Q. I mean, would you feel the same way if
2 it was only 30?

3 A. It's a less preferable to have 30 than
4 60. I mean, as economists, we want more data.

5 Q. Right. At what point in your opinion
6 would it be too few to make a credible
7 analysis?

8 A. Less than 10.

9 Q. Now, earlier we were talking about the
10 decision of a CSO to either pay this license or
11 not pay this license. And when the CSO is
12 making that decision, obviously he is not
13 making it with any thought as to this process
14 of how value is going to be assigned to the
15 owners of the -- of the programming, correct?

16 A. That's correct.

17 Q. You would agree? And so when we talk
18 about using the -- when we talk about the CSO's
19 viewpoint as to whether or not ratings are
20 important or not important, he's going to be
21 making -- he's going to have that opinion
22 regardless of whether we're talking about him
23 focusing on category by category or program by
24 program, right? In other words, there's no
25 evidence, I don't think, or no presumption that

135

1 a CSO makes a different decision whether or not
2 to license a station based upon particular
3 programs or particular categories of programs?
4 We don't know that, do we?

5 A. Well, as an economist, what does my
6 intuition tell me, right?

7 Q. Well, that's a fair answer.

8 A. Yeah.

9 Q. But before we go there, other than by
10 using your intuition as an economist, we don't
11 know, do we? We don't know what -- if there's
12 any such distinction?

13 A. Well, we know what we know what we
14 know from Bortz surveys. That's -- they have
15 an allocation in their minds that is solving a
16 complex profit-maximizing problem. And at a
17 high level, they are thinking of categories of
18 programming.

19 And for a specific category, do I know
20 if it is for a specific show, specific program
21 or something else? I don't know. I don't have
22 that information.

23 But what I wanted to say was then
24 it's -- as an economist, I cannot imagine
25 viewership being not relevant here. How would

136

1 they be making a decision to retransmit a
2 station? If their concern is attracting
3 subscribers or retaining subscribers, how is
4 that going to happen? That's going to happen
5 with viewership.

6 Q. Okay. Bortz doesn't look at -- the
7 Bortz survey doesn't look at ratings, correct?

8 A. No. They survey CSO executives.

9 JUDGE STRICKLER: When you say
10 viewership -- you don't understand how the CSO
11 could make a decision without looking at
12 viewership, are you talking about the fact
13 there must be some viewership or that they
14 should make the decision as to the relative
15 value of the different stations based on how
16 much viewership there is?

17 A. It has got to be tied to viewership,
18 how are they going to attract subscribers. And
19 Mr. Boydston was showing me this from the
20 Federal Register earlier today, which talks
21 about the Nielsen study reveals what viewers
22 actually watched but nothing about whether
23 those programs motivated them to subscribe or
24 remain subscribed to a cable. If it is not
25 viewership, what is it? Like how are they

137

139

1 retaining customers? By having the right set
2 of programs in their line-up. And what is the
3 right set of programs? The programs that will
4 bring subscribers.

5 JUDGE STRICKLER: Is it your testimony
6 then that the more -- in this distribution
7 proceeding in this context, the more viewers a
8 program has, that's a proxy for more
9 subscribership?

10 THE WITNESS: Correct. I mean, maybe
11 they are not using that information when they
12 are making retransmission decisions, but it's
13 the driving force.

14 JUDGE STRICKLER: Are you not
15 concerned with whether or not the viewers of a
16 program that's more highly viewed already are
17 viewing programs that have induced them to
18 subscribe in the same category?

19 THE WITNESS: Could you ask that
20 again?

21 JUDGE STRICKLER: Yeah. Just because
22 somebody is viewing more of a particular
23 program, how can you come to the conclusion
24 necessarily without further investigation that
25 that's inducing more subscribership if those

1 Laura Robinson from the written direct
2 testimony in the first round of these
3 proceedings.

4 And, again, I apologize because I may
5 have asked you a question about this before and
6 I just don't recall, frankly. My question is
7 going to be did you recall in the first round
8 of these proceedings going over that and
9 addressing it in rebuttal testimony?

10 A. Could you tell me the number again?

11 Q. Yeah, I'm sorry, 9015.

12 JUDGE FEDER: It could be tab 15.

13 THE WITNESS: Yeah, I recall seeing
14 this before.

15 BY MR. BOYDSTON:

16 Q. Okay. And do you recall addressing
17 the -- well, do you recall preparing rebuttal
18 testimony regarding it?

19 A. My rebuttal?

20 Q. Yes.

21 A. I should remember it, but, you know,
22 again, I'm happy to try answering your
23 question.

24 Q. Okay. You do recall generally
25 preparing a rebuttal to this, though. Fair

138

140

1 viewers already would have -- would have
2 subscribed, given their existing viewing
3 patterns?

4 THE WITNESS: I mean, we all could be
5 watching different shows either within the same
6 category or across categories, and in these
7 analyses we all make, there is some overlap,
8 right? I may be watching both an IPG and SDC
9 show.

10 With -- without more data, it's hard
11 to get into the weeds of that analysis. But at
12 least within -- by doing this analysis, we did
13 a Devotional category, I believe that concern
14 is much less than the concern you would have in
15 a Phase I because then it's -- you know, using
16 viewership there is a little more complicated,
17 right? We would all be interested in a variety
18 of programs, right?

19 JUDGE STRICKLER: Thank you.

20 THE WITNESS: Thank you.

21 BY MR. BOYDSTON:

22 Q. If I touch on something I touched on
23 before, I apologize. But can you please take a
24 look at what has been marked in the binder
25 there as Exhibit 9015. It's the testimony of

1 enough?

2 A. Yeah.

3 Q. Okay.

4 MR. BOYDSTON: Your Honor, I would
5 like to move this and other -- I'd like to ask
6 that this and other documents be admitted into
7 evidence. I realize there will probably be
8 objections along the same lines as previous
9 objections and that it will probably be likely
10 sustained. I'm just trying to make a record,
11 and I'm trying to do it in as quick a summary
12 fashion as possible so as not to burden
13 everybody too much, but -- so I'll move to
14 admit Exhibit 9015.

15 MR. MacLEAN: Objection along the same
16 lines as earlier objection.

17 MR. OLANIRAN: Same objection.

18 JUDGE BARNETT: 9015, the Trautman --

19 MR. BOYDSTON: No, it's the --

20 THE WITNESS: 9015.

21 MR. BOYDSTON: 15 is the --

22 JUDGE BARNETT: Oh, 15, I'm sorry.

23 Objection sustained.

24 MR. BOYDSTON: And, Your Honor, if I
25 could just ask a clarification, again, to

141

1 expedite these things and I won't -- it will
2 save time. It was our understanding, which may
3 well have been errant, but it was our
4 understanding from previous proceedings that in
5 the live -- in the actual live hearings
6 themselves, that parties could attack the
7 positions taken by their adversaries in their
8 written direct statements using documents,
9 prior testimony, things like that, that
10 addressed issues in their opponent's written
11 direct statement. And that was why we had
12 designated these documents the way we had.

13 My understanding is, is that the
14 Judges are saying now that no, we cannot use
15 them in that regard, that the only documents we
16 can submit or that can be admitted into
17 evidence in this hearing are documents which
18 impeach testimony, live testimony given at this
19 hearing. And I guess I'm just asking for a
20 clarification on that regard.

21 I think that's what you're saying.

22 JUDGE BARNETT: Does anybody want to
23 respond to this?

24 MR. MacLEAN: Your Honor, I'm not sure
25 what practice Mr. Boydston is referring to

142

1 here. My understanding is that
2 cross-examination is for the purposes of
3 impeachment. Cross-examination exhibits are
4 for the purposes of impeachment.

5 If Mr. Boydston would like to show
6 Dr. Erdem his own testimony and attempt to show
7 some inconsistency or something along those
8 lines, to me that would be -- that could
9 potentially be proper impeachment if it's
10 impeaching. I don't --

11 JUDGE BARNETT: I think Mr. --

12 MR. MacLEAN: I don't know how the --
13 the testimony of Dr. Laura Robinson that's not
14 on the record in this proceeding impeaches in
15 any way what Dr. Erdem has said either orally
16 or in writing or any other context.

17 JUDGE BARNETT: Mr. Boydston's
18 question was one step before that. Would we
19 only be allowing any evidence from IPG for
20 purposes of impeachment and refreshing
21 recollection, and whether it could be -- or
22 whether it could be admitted substantively as a
23 response to this witness' testimony or as a
24 substantive rebuttal to this witness'
25 testimony.

143

1 MR. MacLEAN: Your Honor, the rules
2 require that all testimony -- and this
3 requirement applies to rebuttal testimony as
4 well, that all testimony be submitted in
5 writing as part of a written rebuttal statement
6 and all exhibits be submitted in writing as
7 part of a written rebuttal statement.

8 So, no, at this point if they wanted
9 to put in substantive testimony in rebuttal,
10 then the time to do that was part of a written
11 rebuttal statement and not through Dr. Erdem on
12 cross-examination.

13 JUDGE BARNETT: Mr. --

14 MR. OLANIRAN: Olaniran?

15 JUDGE BARNETT: Olaniran. Thank you,
16 I'm sorry. Just a momentary lapse. I'm
17 getting old.

18 Mr. Olaniran, I'm just giving each of
19 you an opportunity to make your record.
20 Mr. Boydston wants to make a record. I'm
21 giving you the opportunity to do the same.

22 MR. OLANIRAN: I appreciate that, Your
23 Honor. With regard to prior designated
24 testimony, our understanding of the order, and
25 I was just going to read directly from the

144

1 order that was issued on Friday, "Prior
2 testimony that IPG did not previously properly
3 identify and exchange with opposing parties may
4 be used at the hearing in accordance with 37
5 C.F.R. 351.10(g), that is only to impeach a
6 witness' direct oral testimony and not for any
7 substantive purpose."

8 And that is our understanding. So, in
9 fact, to the extent they have any prior
10 testimony, that may only be used for
11 impeachment, which only means that they could
12 only use the witness' own statements to try to
13 impeach that particular witness.

14 JUDGE BARNETT: Well, I'm not going to
15 rule on whether there might not be something
16 else out there in the universe that could be
17 used for impeachment.

18 But, Mr. Boydston, I think you have
19 correctly stated -- well, no, I think you posed
20 the question, and the answer is no improperly
21 designated evidence, no evidence that was not
22 properly designated can be admitted into this
23 record for substantive reasons. That includes
24 rebutting the testimony of the witness who is
25 here.

145

147

1 MR. BOYDSTON: Okay. And Mr. Olaniran
2 was pointing to the particular provision that
3 deals with prior testimony. And I understand
4 that, prior oral testimony, because we didn't
5 present all the full transcript, and I
6 understand that point.

7 JUDGE BARNETT: Well, prior testimony
8 is prior testimony, whether it be a transcript
9 or the written testimony.

10 MR. BOYDSTON: Well, with regard to
11 the written testimony, we did previously
12 identify the written. Okay. I understand.

13 JUDGE BARNETT: Thank you.

14 MR. BOYDSTON: Now, I -- maybe we can
15 do this -- if there's an expedited way to do
16 this, I'm all ears, but I would like to go
17 through the exhibits for the record and offer
18 them in evidence and have the ruling made if --

19 JUDGE BARNETT: You may.

20 MR. BOYDSTON: -- you'll indulge me.
21 Move to admit Exhibit -- we dealt with
22 9,000, I believe, and that was denied. I'll
23 move to admit Exhibit 9001.

24 JUDGE BARNETT: Do you have a group?

25 MR. BOYDSTON: Oh, sorry, just go

1 are rejected, subject to their being presented
2 as admissible for impeachment or recollection
3 -- recollection evidence doesn't have to be
4 admitted, but if they are shown to be
5 permissible impeachment, then we will
6 reconsider that ruling. Otherwise they are
7 rejected.

8 (Exhibits 9000 through 9033 were
9 rejected from evidence.)

10 MR. BOYDSTON: Just, Judge Strickler,
11 there was one that was not prior testimony.
12 Numbered 900 -- 9032, rather, is a licensing
13 division report of receipts from May 12th,
14 2014, just to be clear.

15 JUDGE STRICKLER: Thank you.

16 JUDGE BARNETT: And I think the record
17 -- the objection on that one was relevance from
18 -- is that you, Mr. Olaniran?

19 MR. OLANIRAN: Yes, Your Honor.

20 JUDGE BARNETT: Okay.

21 Sustained.

22 MR. BOYDSTON: Nothing further.

23 JUDGE BARNETT: If anyone from
24 Devotionals want to -- I mean, I'm sorry, from
25 Program Suppliers want to --

146

148

1 ahead and list them all?

2 JUDGE BARNETT: Um-hum.

3 MR. BOYDSTON: Sure. Thank you. I
4 move to admit the following exhibits: 9001,
5 9002, 9003, 9004, 9005, 9006, 9007, 9008, 9009,
6 9010, 9011, 9012, 9013, 9014, 9015, 90 -- I
7 think 15 was already ruled on -- 9016, 9017,
8 9018, 9019, 9020, 9021, 9022, 9023, 9024, 9025,
9 9026, 9027, 9028, 9029, 9031, 9032, and 9033.

10 JUDGE STRICKLER: And these all
11 constitute prior testimony in prior
12 proceedings?

13 MR. BOYDSTON: They do, written and
14 oral, yes.

15 JUDGE STRICKLER: Thank you.

16 JUDGE BARNETT: Mr. MacLean?

17 MR. MacLEAN: Objection to all of
18 those exhibits on the basis that a foundation
19 has not been established that these are proper
20 impeachment or admissible on any other ground.

21 MR. OLANIRAN: Same objection, Your
22 Honor. Foundation and relevance, Your Honor.

23 JUDGE BARNETT: Thank you. All of the
24 exhibits, and I apologize if I'm duplicating
25 numbers here, but 9000 through 9033, inclusive,

1 MR. OLANIRAN: No, Your Honor.

2 JUDGE BARNETT: Okay. Mr. MacLean?

3 MR. MacLEAN: Yes, just very quickly,
4 Your Honor. I'm not going to call my shots
5 this time but won't be many. I'm not going to
6 call my shots this time but won't be many.

7 REDIRECT EXAMINATION

8 BY MR. MacLEAN:

9 Q. Thank you, Dr. Erdem. I just wanted
10 to address a couple of quick things. One is
11 that you received some questions asking about
12 your -- your number of observations on annual
13 -- which were all on annualized basis in
14 comparison to the number of -- total number of
15 IPG broadcasts, however many thousands or
16 hundreds of thousands or whatever the number
17 was.

18 Could you just very briefly explain
19 why there is a difference between the number of
20 broadcasts, on the one hand, the and number of
21 observations --

22 A. Sure.

23 Q. -- in your sense, on the other hand?

24 A. Sure. So, obviously, each program
25 might be available to viewers on multiple

149

1 stations throughout the year or sweep periods,
2 and that can add up to hundreds, if not
3 thousands, of broadcasts, right? Each Seinfeld
4 episode on station ABC at, you know, 7:30 p.m.
5 is a broadcast. So if you look at the total
6 number of broadcasts for IPG and SDC, you may
7 have 100,000 for IPG and 100,000 for SDC.

8 That's just what I call a measure of
9 volume. That's how many times each appeared on
10 many, many stations that are available
11 nationally.

12 In my analysis, that's not relevant,
13 because I'm interested in that whole series of
14 broadcasts summarizing to some statistic,
15 including national ratings for that program in
16 that sweep month. That's one number. That is
17 derived over thousands of broadcasts that were
18 available to sampled households in the Nielsen
19 sweep methodology.

20 And I do this annualization for IPG
21 and SDC claimed program thanks to Nielsen, who
22 does this calculation for me, summarizes it for
23 me, in the RODPs every sweep month. I don't
24 have to deal with all of the underlying
25 sampling and the data collection and

150

1 summarization.

2 So 700 Club might be just one
3 observation in February '99, and then James
4 Robison may be another observation in the same
5 sweep month.

6 And these are just, you know, facts of
7 the marketplace and, you know, there is nothing
8 inconsistent with how many observations I have
9 in my regression versus how many times a show
10 is broadcast.

11 Q. So 60 observations, say, doesn't mean
12 that, out of hundreds of thousands of
13 broadcasts, there are only 60 non-zero
14 responses. This has nothing to do with the
15 zero viewing issue?

16 A. Exactly.

17 Q. The other area that I wanted to ask
18 you about on redirect here goes to a question
19 that Judge Strickler raised, which is the
20 question of whether there might be -- you know,
21 viewers might watch, subscribers might watch
22 more than one program, there might be
23 overlapping viewership of those programs, and
24 the question of which of those programs are the
25 ones that are attracting or retaining that

151

1 subscriber.

2 Do you remember that line of
3 questioning from Judge Strickler?

4 A. Yes.

5 Q. And I just wanted to flag -- and if
6 you'll turn to page 22 of your testimony and
7 then going on to page 23, you address the sort
8 of thought experiment of Shapley valuation. Do
9 you see that there?

10 A. Yeah.

11 Q. Okay. Is this -- does this -- and if
12 you need to refresh your recollection, please
13 do so, you know, but does your written
14 testimony here with regard to Shapley valuation
15 go to that question of overlapping viewership
16 in attracting and retaining subscribers?

17 A. It is. That's correct. And, you
18 know, if you wanted to have very precise
19 estimates of marginal value for each program,
20 we need a data set that is impossible to
21 generate and impossible to analyze. I think
22 about all potential combinations of programs
23 that we have access to, which hypothetically
24 could have helped us understand the marginal
25 value of each one by looking at the variation

152

1 of viewing pattern that was, you know, many,
2 many households.

3 And we discussed previously, and I
4 discussed it in my testimony, that data doesn't
5 exist and the computation of power is not
6 available.

7 Q. Just to put a little bit more meat on
8 those bones --

9 MR. MacLEAN: And, Your Honor, we did
10 bring an easel that I could write up the
11 Shapley valuation formula, if we wanted to, but
12 I think I can make the point maybe without
13 doing that. But I'm happy to do it if there's
14 a question for me to do it, but it is in our
15 findings of fact and conclusions of law. It's
16 referenced in your opinion from the prior
17 decision.

18 JUDGE BARNETT: Thank you.

19 BY MR. MacLEAN:

20 Q. So in the Shapley valuation
21 analysis -- I just want to make this clear --
22 there is a term for absolute value of in
23 factorial, right?

24 A. Correct.

25 Q. What does "factorial" mean in that, in

153

1 the context of a --
 2 A. So that's the number of combinations
 3 of programs you need to define the universe of
 4 data necessary to conduct an analysis.
 5 Q. So to actually calculate -- if you
 6 used a Shapley valuation as something other
 7 than a thought experiment --
 8 A. Yes.
 9 Q. -- you describe it as a thought
 10 experiment in your written testimony. To use a
 11 Shapley valuation as something other than a
 12 thought experimentation, you would actually
 13 have to compute every possible order of
 14 combinations; is that right? Assuming you have
 15 the data to do it.
 16 A. That's correct.
 17 Q. And that in factorial, let's say we
 18 had, say, 50 programs, say, you know, which
 19 would be a very small number for a cable system
 20 to be operating, but just as a hypothetical,
 21 you have 50 programs. Do you have any idea --
 22 are you able to compute in your head what 50
 23 factorial is?
 24 A. It's large.
 25 Q. It's very, very, very large.

154

1 If I could --
 2 A. Ask Google.
 3 Q. If I could be permitted to use my cell
 4 phone, I could calculate the number, but --
 5 JUDGE BARNETT: Unless my colleagues
 6 want that, I think we all understand factorial.
 7 MR. MacLEAN: Great.
 8 BY MR. MacLEAN:
 9 Q. If there were -- if you were to
 10 actually compute 50 factorial, would there be
 11 enough time using the fastest computers in the
 12 world to actually complete that computation
 13 during the history of the existence of the
 14 universe?
 15 JUDGE STRICKLER: The existence of the
 16 universe?
 17 MR. MacLEAN: Yes.
 18 JUDGE STRICKLER: You have that number
 19 in mind I know.
 20 (Laughter.)
 21 THE WITNESS: Well, I definitely don't
 22 have that computer at KPMG.
 23 (Laughter.)
 24 THE WITNESS: I don't think anyone
 25 does.

155

1 MR. MacLEAN: All right.
 2 JUDGE STRICKLER: Counsel, maybe you
 3 want to calculate that one first.
 4 MR. MacLEAN: I can.
 5 JUDGE STRICKLER: Put it away.
 6 (Laughter.)
 7 MR. MacLEAN: It's actually trillions
 8 and trillions of time the history of the
 9 universe. Okay. Thank you. No further
 10 questions.
 11 JUDGE BARNETT: Thank you. Nothing
 12 from the bench. Thank you, Dr. Erdem.
 13 MR. BOYDSTON: Could I just have two
 14 questions?
 15 JUDGE BARNETT: Oh, yes. I'm sorry,
 16 Mr. Boydston.
 17 RE-CROSS-EXAMINATION
 18 BY MR. BOYDSTON:
 19 Q. Dr. Erdem, if you are using an annual
 20 average for a program, it's accurate -- is it
 21 accurate that if there are 100 broadcasts and
 22 only one shows a positive measurement, under
 23 your analysis all 100 broadcasts are imputed a
 24 positive measurement? Correct?
 25 A. That's not correct. Whose -- whose

156

1 information?
 2 Q. Well, you are counting each of the 100
 3 or you are assigning a positive measurement to
 4 each of those 100, even if there's just one
 5 that has a positive measurement, correct?
 6 A. That's not correct.
 7 Q. Okay. And then --
 8 A. I don't have that level of data.
 9 Q. Well --
 10 A. To do imputations over hundreds of
 11 records.
 12 Q. Okay, but if we're talking about a
 13 particular program and it had -- my
 14 understanding of your previous testimony was
 15 that if we were talking about a particular
 16 program and there are 100 broadcasts on it, and
 17 let's say that in 99 -- for 99 of those
 18 broadcasts, there's zero viewing, there's no
 19 rating, no measurements calculated, but for one
 20 there is, that in your analysis you then, for
 21 the purposes of your analysis, assign and
 22 calculate a value for the 99 for which there is
 23 not -- for which there's otherwise zero
 24 viewing; you put a positive measurement of some
 25 sort on those 99, correct?

157

1 A. That's not correct. And it's simpler
2 than the way you describe it. So if you look
3 at the R-7, it tells me in a given sweep month,
4 James Robison is not ranked, it's not rated.

5 So I know it's either a special or it
6 has a national average rating that's below
7 0.1 percent. I just see one record. I'm not
8 seeing 100 broadcasts or 100 households, just
9 one record in R-7.

10 Then I say: Well, I have the detail
11 for James Robison in the RODEs, because it's,
12 you know, a few hundred pages total. And that
13 table shows me how many households on average
14 viewed James Robison. It might say 7,000.
15 That's an average Nielsen gives me over all the
16 sampled households for that sweep month, let's
17 say February '99. So let's say 7,000.

18 And then I know in that same report
19 how many households had access to James
20 Robison. Again, a national number for that
21 sweep month.

22 All I do is take the ratio of 7,000
23 to, let's say, 500,000 households. That is my
24 value to impute one record for that sweep
25 month, this James Robison February 1999, which

158

1 will be .05 percent.

2 So I don't have a complicated issue
3 like you're raising. I don't have broadcast
4 level data. I don't have all the sampled
5 household data from Nielsen. I'm working with
6 the summaries.

7 Q. Is it accurate that even if the
8 measured local broadcast that creates a
9 positive annual average figure, there might not
10 be a positive distant measurement for that
11 particular distant broadcast?

12 A. Can you ask that question again?

13 Q. Certainly. I'm asking you whether or
14 not this statement is accurate, that even if
15 the measured local -- there's a measured local
16 broadcast that creates a positive annual
17 average figure, might there not be a positive
18 distant measurement for that particular distant
19 broadcast?

20 A. That's possible at the broadcast
21 level.

22 MR. BOYDSTON: Nothing further.

23 JUDGE BARNETT: Thank you, Dr. Erdem.

24 You may be excused.

25 THE WITNESS: Thank you.

159

1 (The witness stood down.)

2 MR. MacLEAN: The SDC calls
3 John Sanders.

4 JUDGE BARNETT: Before you are seated,
5 please raise your right hand.
6 Whereupon--

7 JOHN S. SANDERS,
8 having been first duly sworn, was examined and
9 testified as follows:

10 JUDGE BARNETT: Please be seated.

11 THE WITNESS: Thank you very much.

12 DIRECT EXAMINATION

13 BY MR. MacLEAN:

14 Q. Good afternoon, Mr. Sanders.

15 A. Good afternoon.

16 Q. Would you please introduce yourself
17 briefly to the Judges.

18 A. My name is John, J-o-h-n, S., Sanders,
19 S-a-n-d-e-r-s. And I am a principal in the
20 Washington, D.C.-based consulting firm Bond &
21 Pecaro Incorporated.

22 Q. And then bearing in mind, of course,
23 that the Judges heard from you recently just a
24 few weeks ago, could you briefly give us an
25 overview of your educational background and

160

1 experience.

2 A. I received a Bachelor's degree cum
3 laude, with honors, from Dickinson College in
4 Carlisle, Pennsylvania, with a double major in
5 economics and international studies. I also
6 received a Master's of business administration
7 degree from the University of Virginia.

8 I began my career in the valuation
9 specialty in 1982 with a company here in
10 Washington called Frazier, Gross & Kadlec,
11 which specialized in the valuation of media
12 assets. And I was one of the founders of Bond
13 & Pecaro in 1986, with -- a company very much
14 with the same specialty, and I've been with
15 them ever since then.

16 Q. Could you give us some examples of the
17 kinds of work and projects that you work on at
18 Bond & Pecaro?

19 A. We do a variety of things, but the
20 focus of our work is in matters related to
21 valuation. The primary focus industry-wide is
22 in media and communications. So our clients
23 are television networks, cable companies,
24 newspapers, Internet companies, a variety of
25 subscriber-based industries, and we've branched

<p style="text-align: right;">161</p> <p>1 off into other areas as well in terms of doing</p> <p>2 work for the government, but basically projects</p> <p>3 that require economic and financial</p> <p>4 valuation-type analyses.</p> <p>5 Our clients range from the biggest</p> <p>6 corporations in the country all the way down to</p> <p>7 mom-and-pop businesses.</p> <p>8 Q. From your curriculum vitae, which is</p> <p>9 attached to your written direct testimony,</p> <p>10 that's Exhibit 7001, it shows that you're an</p> <p>11 accredited senior appraiser from the American</p> <p>12 Society of Appraisers.</p> <p>13 Could you explain briefly to the</p> <p>14 Judges what that means.</p> <p>15 A. Yes. That is the primary designating</p> <p>16 body in the country that certifies</p> <p>17 professionals in the appraisal profession.</p> <p>18 There are a variety of specialties within the</p> <p>19 American Society of Appraisers, also called the</p> <p>20 ASA, jewelry appraisers, antiques appraisers,</p> <p>21 machinery and equipment appraisers. My</p> <p>22 specialty and certification is in the area of</p> <p>23 business valuation.</p> <p>24 And in order to get the designation as</p> <p>25 an ASA, the same initials as the association,</p>	<p style="text-align: right;">163</p> <p>1 statements for publicly traded companies. And</p> <p>2 as a consequence, they're subjected to a very</p> <p>3 rigorous auditing process, not just by CPAs,</p> <p>4 but many of the big accounting firms have their</p> <p>5 own valuation practice which will go through</p> <p>6 our reports, which could, you know, value a</p> <p>7 whole company or discrete intangible assets.</p> <p>8 Q. And would those discrete intangible</p> <p>9 assets include television programs and</p> <p>10 television retransmission rights?</p> <p>11 A. That is correct.</p> <p>12 Q. Approximately how many media asset</p> <p>13 valuations have you personally been involved</p> <p>14 in?</p> <p>15 A. Well over 3,000. I think -- we assign</p> <p>16 each project a number as it comes into the</p> <p>17 company. I think we're now north of 3700.</p> <p>18 I've been involved either in a direct</p> <p>19 way or in a supervisory role in most of them.</p> <p>20 But many of those would comprise multiple</p> <p>21 businesses or assets under one project number.</p> <p>22 For example, you know, an acquisition of a</p> <p>23 large cable company might actually include, you</p> <p>24 know, 80 or 100 separate cable systems spread</p> <p>25 all over the country.</p>
<p style="text-align: right;">162</p> <p>1 but it stands for accredited senior appraiser,</p> <p>2 it's necessary for one to take four courses and</p> <p>3 pass an exam on each one, as well as an ethics</p> <p>4 exam, as well as an exam on what they call the</p> <p>5 uniform standards of professional appraisal</p> <p>6 practice, another acronym, USPAP.</p> <p>7 Additionally, it's necessary to submit</p> <p>8 a sample report for review by the association</p> <p>9 and additionally a log documenting several</p> <p>10 years of experience in the field.</p> <p>11 Q. And your experience in the field with</p> <p>12 business appraisals has been focused in the</p> <p>13 media realm, including media assets; is that</p> <p>14 right?</p> <p>15 A. That's correct. And that, you know, I</p> <p>16 have listed some of the industries that we work</p> <p>17 in. The types of projects that we're involved</p> <p>18 in could, you know, span a fairly wide range</p> <p>19 from helping people to make decisions, to</p> <p>20 allocating the purchase price in an</p> <p>21 acquisition, to doing tax work, to doing</p> <p>22 accounting work.</p> <p>23 I sometimes say I'm the most audited</p> <p>24 guy in this town because a lot of the reports</p> <p>25 we do form the basis for the financial</p>	<p style="text-align: right;">164</p> <p>1 Q. Have you, in fact, prepared valuations</p> <p>2 for buyers and sellers of TV programs and TV</p> <p>3 retransmission rights, including cable and</p> <p>4 satellite operators?</p> <p>5 A. Yes, I have.</p> <p>6 Q. Have you testified before the</p> <p>7 Copyright Royalty Board previously?</p> <p>8 A. Yes, I have. I believe this is my</p> <p>9 fourth time in this room. I testified in the</p> <p>10 1998-1999 distribution proceeding. I testified</p> <p>11 in the first -- initial phase of this case.</p> <p>12 And I was also here recently in the 2010 to</p> <p>13 2013 allocation matter.</p> <p>14 Q. All right. Are your qualifications</p> <p>15 further set forth in your curriculum vitae</p> <p>16 attached --</p> <p>17 A. Yes, they are.</p> <p>18 Q. -- to your written direct testimony?</p> <p>19 Okay.</p> <p>20 MR. MacLEAN: Your Honor, I offer</p> <p>21 Mr. Sanders as an expert in media market</p> <p>22 research and valuation of media assets,</p> <p>23 including television programs.</p> <p>24 MR. BOYDSTON: Your Honor, may I voir</p> <p>25 dire?</p>

165

JUDGE BARNETT: You may.

VOIR DIRE EXAMINATION

BY MR. BOYDSTON:

Q. Good afternoon, Mr. Sanders. My name is Brian Boydston and I represent IPG.

I believe we've met before in this context in a different proceeding. That proceeding was the 2000-2003 cable proceeding. Do you recall testifying in that?

A. I remember testifying in the matters that I just listed.

Q. Okay, fair enough.

Now, you -- my understanding and my recollection from your prior testimony is that you've never work for a cable system operator, correct?

A. I have never worked for a cable system operator as an employee. I have been retained by cable system operators through my firm.

Q. And would the same answer apply to satellite system operators?

A. That is correct.

Q. Okay. And have you ever been otherwise involved -- strike that.

Have you ever made a decision as to

166

whether or not -- and I realize it would only be in a consultation sort of a role -- but have you ever made a decision as to whether or not to pay the -- license, the type of license that's at issue in this proceeding for a particular retransmission?

A. My focus has been primarily in the value -- in the area of doing valuation like in this case, not necessarily in programming consultation.

Q. I understand. So I think the answer is no, because that's not your area, correct?

A. I would only say because it's not my area, in many cases the decisions to carry distant signals are made geographically. You know, the vast majority of those decisions are in communities that are adjacent to markets, so it isn't the type of decision that in many cases requires, you know, a detailed sophisticated consultation.

Q. Okay. What sources do you have for having -- excuse me, strike that.

Do you have any information, firsthand information, as to what motivates a cable system operator to choose -- to license one

167

retransmission over another?

A. Certainly over the course of my career, I've come to understand what those motivations are.

Q. And how so over the course of your career?

A. Through my work on over 3,000 projects.

Q. Okay. And has -- can you be more specific in that? What information have you derived from that experience that informs you as to how a cable system operator makes that decision?

A. Cable companies endeavor to attract subscribers. And the first -- I'll say cable and satellite companies endeavor to attract subscribers.

And the first step in doing that is in offering an attractive line-up of programming, which includes local signals, distant signals, as well as, you know, a plethora of cable-only channels.

I've characterized the distant signal part of the industry as a thin slice of a thin slice, but it's certainly one that has appeared

168

over the years in a variety of work that I've done, whether it's an income line for a television broadcaster or an expense line for a cable company or in some cases an income line for a programmer of a particular program.

Q. But you, yourself, have never been in charge of creating a particular program line-up for a cable system operator, correct?

A. That is correct.

MR. BOYDSTON: Nothing further on voir dire. I'd submit that I don't believe that Mr. Sanders is an expert on what information cable system operators and satellite system operators use in order to select retransmitted programming because it's not in his line of experience.

JUDGE BARNETT: Would you like to respond, Mr. MacLean?

MR. MacLEAN: Yes, Your Honor. That's not what we've offered Mr. Sanders as an expert in. We've offered him as an expert in media -- in -- in media market research and valuation of media assets, including television programs. We've submitted the testimony of Ms. Berlin as our expert with regard to television

<p style="text-align: right;">169</p> <p>1 programming on system operators.</p> <p>2 JUDGE BARNETT: Thank you.</p> <p>3 Mr. Sanders is qualified as an expert</p> <p>4 in the areas for which he is offered.</p> <p>5 MR. MacLEAN: Thank you, Your Honor.</p> <p>6 DIRECT EXAMINATION</p> <p>7 BY MR. MacLEAN:</p> <p>8 Q. Mr. Sanders, first I'd like you to</p> <p>9 take a look at Exhibit 7001, which should be in</p> <p>10 the binder in front of you. Not the binder</p> <p>11 immediately in front of you, but the binder in</p> <p>12 front of the binder in front of you.</p> <p>13 Is Exhibit 7001 a true and accurate</p> <p>14 copy of your written direct statement in this</p> <p>15 matter?</p> <p>16 A. Yes, to the best of my knowledge.</p> <p>17 Q. And is there -- is everything in</p> <p>18 Exhibit 7001 true and accurate?</p> <p>19 A. To the best of my knowledge.</p> <p>20 MR. MacLEAN: Your Honor, I offer</p> <p>21 Exhibit 7001 into evidence.</p> <p>22 MR. BOYDSTON: No objection.</p> <p>23 MR. OLANIRAN: No objection.</p> <p>24 JUDGE BARNETT: 7001 is admitted.</p> <p>25 (Exhibit Number 7001 was marked and</p>	<p style="text-align: right;">171</p> <p>1 matters that he is an expert on, i.e., if there</p> <p>2 are provisions of 7001 that go into the</p> <p>3 motivations of a system operator, we would</p> <p>4 object on the grounds that it's beyond the</p> <p>5 scope of his expertise.</p> <p>6 MR. MacLEAN: Your Honor, I think -- I</p> <p>7 think the time to make objections is when we're</p> <p>8 offering exhibit and not -- so if they have</p> <p>9 objections to particular components, I would</p> <p>10 prefer that they be addressed now rather than</p> <p>11 later so we can have a fair opportunity to</p> <p>12 respond.</p> <p>13 MR. BOYDSTON: I just don't want to be</p> <p>14 foreclosed from making the argument that</p> <p>15 something might be beyond the scope of his</p> <p>16 expertise. That's all. Which I think is</p> <p>17 probably the case anyway.</p> <p>18 JUDGE BARNETT: The exhibit is</p> <p>19 admitted. You may cross-examine and you may</p> <p>20 argue with regard to anything that is in the</p> <p>21 exhibit that is beyond the scope of his</p> <p>22 expertise.</p> <p>23 MR. BOYDSTON: Thank you, Your Honor.</p> <p>24 JUDGE BARNETT: Or might be.</p> <p>25 MR. BOYDSTON: Thank you, Your Honor.</p>
<p style="text-align: right;">170</p> <p>1 received into evidence.)</p> <p>2 BY MR. MacLEAN:</p> <p>3 Q. Mr. Sanders, what was your engagement</p> <p>4 in this matter?</p> <p>5 A. My engagement, as I understand it, had</p> <p>6 two components. The first was in coordination</p> <p>7 with Dr. Erdem to develop an appropriate</p> <p>8 methodology for the fair market -- the relative</p> <p>9 fair market value determination of two buckets,</p> <p>10 we'll call them buckets of programming, one</p> <p>11 comprised of copyright holders represented by</p> <p>12 the Settling Devotional Claimants and the other</p> <p>13 by the IPG, Independent Producers Group. The</p> <p>14 -- that is basically identical to what I</p> <p>15 understood my charge to be in the first</p> <p>16 iteration of this case.</p> <p>17 So the second component was to work on</p> <p>18 addressing concerns that the -- that the Judges</p> <p>19 had raised that led to this secondary</p> <p>20 proceeding in an effort to find more data and</p> <p>21 to try and address what the concerns were that</p> <p>22 that were articulated.</p> <p>23 MR. BOYDSTON: Your Honor, just</p> <p>24 briefly. With regard to Exhibit 7001, we have</p> <p>25 no objection to the extent that it addresses</p>	<p style="text-align: right;">172</p> <p>1 BY MR. MacLEAN:</p> <p>2 Q. So could you in summary fashion just</p> <p>3 describe for the Judges how you in consultation</p> <p>4 with Dr. Erdem went about evaluating the</p> <p>5 programming at issue in these proceedings?</p> <p>6 A. Well, as I do at the outset of most of</p> <p>7 my appraisal engagements --</p> <p>8 Q. Hang on for a second, Mr. Sanders. I</p> <p>9 just wanted to --</p> <p>10 JUDGE BARNETT: I'm sorry. Go ahead.</p> <p>11 MR. MacLEAN: Oh, okay.</p> <p>12 BY MR. MacLEAN:</p> <p>13 Q. Please go ahead, Mr. Sanders.</p> <p>14 A. As I do at the outset of most of my</p> <p>15 appraisal engagements, I considered three</p> <p>16 approaches to value. The cost approach, the</p> <p>17 income approach, and the market approach. This</p> <p>18 is sort of standard business valuation 101.</p> <p>19 And in most exercises, it's determined for one</p> <p>20 reason or another that one or more of those</p> <p>21 approaches may not be applicable.</p> <p>22 In this case, the cost approach would</p> <p>23 have involved trying to replicate the cost of a</p> <p>24 distant signal, replicating the cost of all</p> <p>25 that programming, and that just seemed</p>

173

1 Byzantine and unworkable and very risky as far
2 as yielding any type of a meaningful result
3 anyway.

4 Similarly, the income approach would
5 have involved trying to attach some type of
6 income stream to each individual Claimant, and
7 that also seemed to be unworkable. Data is not
8 available to do that.

9 However, in a situation like this, the
10 application of the market approach does seem to
11 be applicable. So my recommendation was that
12 we follow a model similar to what I use in many
13 appraisal engagements, where we have a volume
14 component, as well as a valuation component,
15 and the marriage of those two can then yield a
16 determination of relative fair market value.

17 Q. And can you explain further what your
18 value and your volume components are that you
19 use and how you use them to come up with a
20 measure or an estimate of relative fair market
21 value.

22 A. The value component was based on
23 Nielsen ratings that were extracted from a
24 document called a Report on Devotional
25 Programs, which is itself extracted from

174

1 another series of Nielsen reports called the
2 VIP reports, Viewers in Profile, that my
3 company subscribes to and that are published
4 every single quarter for every single market in
5 the United States, that are based on surveys,
6 typically 400,000 surveys per quarter, so they
7 provide a granular, in-depth view of local
8 viewing.

9 Q. Just to cut in very quickly. You said
10 400,000 surveys per quarter. Did you mean
11 100,000 per quarter over four quarters?

12 A. I mean 400,000 times 4 over the course
13 of a year.

14 Q. Go ahead.

15 A. Okay. And then, secondly, there was
16 data on retransmitted signals from the Cable
17 Data Corporation, which provided a measurement
18 of volume of the -- of the markets and the
19 households that those programs were exposed to.

20 Q. And is that a typical appraisal
21 approach to find a measure of -- an estimate of
22 value and combine it with an estimate of
23 volume?

24 A. Very much so. In the media field, you
25 know, the valuation of a cable system might be

175

1 the number of subscribers times a valuation
2 metric, the value per subscriber. Households
3 are often derived by multiplying the number of
4 households in the DMA or the number of
5 households that are exposed to a program.

6 In real estate, it's not uncommon to
7 see a building valued by a number of square
8 feet times a value per square foot; so you have
9 a valuation metric and a volume metric.

10 Q. Now, a question that is perennially
11 raised in these proceedings is why viewership
12 would be related to the value of programming to
13 a subscription service like a cable or
14 satellite system operator? Could you explain
15 why you regard viewership as a measure,
16 potential measure of value.

17 A. It is a common -- it's a commonsense
18 paradigm that viewing begets subscribers. And
19 any program which has no evidence of viewing,
20 as a consequence, would show no evidence of
21 generating a subscriber.

22 MR. BOYDSTON: Your Honor, I object.
23 Again, because I believe this goes beyond the
24 scope of his expertise, because he's saying
25 that he understands that viewership influences

176

1 the CSO's decision. And that's beyond the
2 scope of his expertise.

3 MR. MacLEAN: Your Honor, the scope of
4 his expertise is valuation of media assets.
5 And he's talking about factors that go into
6 valuation of a media asset, particularly with
7 regard to the cable system operators and
8 satellite system operators, with whom he has
9 testified he has engaged in valuation
10 procedures. We're not -- this is the very
11 expertise that he's qualified on.

12 MR. BOYDSTON: Well, then that's
13 within the scope -- outside the scope of his
14 expertise because what we have just established
15 is that he doesn't have expertise as to what --
16 how it is a cable system operator puts value on
17 a potential station to be retransmitted.

18 He said that he has not done that.

19 JUDGE BARNETT: And he is not opining
20 about how they came to their values. He's
21 simply using their values as input in his
22 analysis as an appraiser. Overruled.

23 Mr. Sanders, if you recall the
24 question you may answer.

25 THE WITNESS: I'll ask you to repeat

<p style="text-align: right;">177</p> <p>1 it.</p> <p>2 BY MR. MacLEAN:</p> <p>3 Q. I had actually thought he already</p> <p>4 answered it.</p> <p>5 MR. BOYDSTON: He had.</p> <p>6 JUDGE BARNETT: Okay. For my benefit.</p> <p>7 MR. MacLEAN: We'll have to look at</p> <p>8 the transcript.</p> <p>9 JUDGE BARNETT: For my benefit, do you</p> <p>10 think you could repeat your answer then?</p> <p>11 MR. MacLEAN: I'll attempt to repeat</p> <p>12 the question and --</p> <p>13 JUDGE BARNETT: Thank you.</p> <p>14 MR. MacLEAN: -- if it's not exactly,</p> <p>15 it will be something, something close to it.</p> <p>16 JUDGE BARNETT: Thank you.</p> <p>17 BY MR. MacLEAN:</p> <p>18 Q. So the question was why would you</p> <p>19 regard viewership as a potential measure of</p> <p>20 value with regard to a subscription-based</p> <p>21 service like a cable system or a satellite</p> <p>22 system operator?</p> <p>23 MR. BOYDSTON: Same objection.</p> <p>24 JUDGE BARNETT: Same ruling.</p> <p>25 THE WITNESS: Viewership is</p>	<p style="text-align: right;">179</p> <p>1 be indicated by the pure viewing numbers.</p> <p>2 And, you know, I could give an example</p> <p>3 of a restaurant. Before my career, as I</p> <p>4 mentioned before, I did every job you could do</p> <p>5 in a restaurant, but typically a menu will have</p> <p>6 categories. And I could imagine, say, in</p> <p>7 Washington, D.C. on an average night around</p> <p>8 Dupont Circle, there's parties of five going</p> <p>9 around, each of which has one vegetarian. If a</p> <p>10 restaurant didn't have a vegetarian option on</p> <p>11 the menu, it may get no business at all under</p> <p>12 that assumption. So the importance of having</p> <p>13 that on the menu would be significantly greater</p> <p>14 than the 20 percent ratings, so to speak, that</p> <p>15 would be demonstrated by the numbers.</p> <p>16 On the other hand, though, once you go</p> <p>17 into that category, then the attention</p> <p>18 logically makes much more sense as to what</p> <p>19 particular menu items would be the most</p> <p>20 popular. And, you know, while we're on the</p> <p>21 subject of Devotional matters, the same would</p> <p>22 probably go for having, you know, kosher</p> <p>23 options or having fish on Fridays that the</p> <p>24 general menu, the general choices will be</p> <p>25 derived to be appealing to various groups and</p>
<p style="text-align: right;">178</p> <p>1 commonsensically the initial component of any</p> <p>2 attraction of a subscriber. Zero viewing to a</p> <p>3 programming by definition is not going to</p> <p>4 attract a subscriber.</p> <p>5 So as a consequence, the value times</p> <p>6 volume metric seemed to make very much sense in</p> <p>7 this regard.</p> <p>8 BY MR. MacLEAN:</p> <p>9 Q. Now, you, of course, were here just a</p> <p>10 few weeks ago talking about, in the Phase I</p> <p>11 context, the appropriateness of what kinds of</p> <p>12 valuation techniques you would use there.</p> <p>13 Why would in -- evaluating programming</p> <p>14 here in a Phase II context involve different</p> <p>15 considerations of the importance of viewership</p> <p>16 than would be at issue in a Phase I or</p> <p>17 allocation phase context?</p> <p>18 A. The use of ratings and Nielsen data in</p> <p>19 this exercise is more appropriate in my mind</p> <p>20 for programming that is homogeneous in nature,</p> <p>21 like Devotional programming.</p> <p>22 The first phase had to do with</p> <p>23 defining different categories that a system</p> <p>24 might offer, and often the importance of those</p> <p>25 categories could vary somewhat from what might</p>	<p style="text-align: right;">180</p> <p>1 various niches of people, but within those</p> <p>2 categories, the ratings become much, much more</p> <p>3 important.</p> <p>4 Q. Can you summarize briefly the specific</p> <p>5 methodology that you and Dr. Erdem have</p> <p>6 proposed? Bear in mind we've already heard</p> <p>7 from Dr. Erdem today. But if you could, just</p> <p>8 to lay the foundation here, the specific</p> <p>9 methodology that you and Dr. Erdem proposed in</p> <p>10 this proceeding.</p> <p>11 A. Basically, the methodology involved</p> <p>12 using the RODP reports to calculate what I call</p> <p>13 the value measure, looking at the total</p> <p>14 household delivery of the various programs, and</p> <p>15 then adding those -- and then adding those up</p> <p>16 by each Claimant but also making an adjustment</p> <p>17 for the households for the subscriber count</p> <p>18 that those were exposed to, using the CDC data.</p> <p>19 Q. What sources of viewership information</p> <p>20 did you rely on in this proceeding?</p> <p>21 A. There were two sources of viewing</p> <p>22 information. The first was the RODP books that</p> <p>23 I mentioned. And then, additionally, there</p> <p>24 were some customized studies from the MPAA,</p> <p>25 which related specifically to distant viewing.</p>

181

1 Q. Are -- these two sources, the RODPs
2 for local viewing, the HHVH data for distant
3 viewing, did these come from metered
4 measurements or sweep measurements?

5 A. Primarily from sweep measurements.

6 Q. And is there a reason that you chose
7 to rely on sweep data and information rather
8 than metered data and information?

9 A. Well, as I mentioned before, there are
10 210 defined video markets in the United States
11 from New York all the way down to Bend, Oregon
12 and Alpena. And the sweeps data is derived
13 from a large sample in every single one of
14 those and, therefore, you know, provides much
15 more granular, much more detailed data, you
16 know, as I indicated before, based literally on
17 hundreds of thousands of surveys.

18 The metered data, particularly at this
19 point in time, was concentrated in much larger
20 markets. And so as a consequence, the data
21 didn't represent a national random sample and,
22 moreover, really ignored local viewing,
23 particularly in markets that might have a
24 tendency to have greater popularity for
25 Devotional programming.

182

1 JUDGE FEDER: Mr. Sanders, for
2 markets, are you using that interchangeably
3 with DMAs?

4 THE WITNESS: That is correct.

5 JUDGE FEDER: Thank you.

6 BY MR. MacLEAN:

7 Q. Now, the Judges have raised a concern
8 about the fact that in our original
9 presentation, the last time we were here in
10 this proceeding, you only had RODPs, reports on
11 Devotional programming, for the February sweep
12 months in years 1999 through 2003.

13 And we've already heard from Dr. Erdem
14 about some of the analyses that he has
15 performed, but how would you respond -- what
16 have you done to respond to this concern?

17 A. Well, first of all, I participated in
18 an effort to try and find additional data, was
19 involved in a number of conference calls with
20 Nielsen, and I'm just thinking possibly three
21 calls with at least three different executives
22 from Nielsen, and was informed that additional
23 data from that source was just simply not
24 available.

25 However, the SDC did reach out to its

183

1 various members and one of them did locate an
2 additional eight books for that time period --
3 I'm sorry, eight summary pages for that time
4 period. As a consequence, then, the data in
5 those earlier years was made much more robust.
6 And looking over the entire period in question,
7 I think that there were -- the sample now
8 includes 85, roughly 85 percent of the -- of
9 the quarters in question.

10 Q. And you, of course, have reviewed
11 Dr. Erdem's analyses with regard to the tests
12 that he has done on this local viewing data?

13 A. Yes.

14 Q. Do you have any remaining concerns
15 about the absence of full Nielsen RODPs for the
16 -- in some of the quarters during the time
17 period of 1999 through 2003?

18 A. I don't. And, if anything, I guess as
19 they're supposed to, the sophisticated, you
20 know, statistical analyses just confirm what
21 might be visually obvious, that going from
22 quarter to quarter, there don't tend to be
23 large gyrations in the performance of a
24 particular program.

25 Q. The Judges have also raised a concern

184

1 about whether we have sufficient data to
2 establish that viewership in distant markets
3 tends to correlate with viewership in local
4 markets. And, again, we've heard from
5 Dr. Erdem about his analyses, but what would
6 your response be to this particular concern?

7 A. As a result of the information
8 provided within the four corners of this case,
9 additional HHVH data was made available for
10 four additional years going all the way up to
11 2003, I believe, and that allowed us and
12 allowed Dr. Erdem to make a much more
13 comprehensive analysis confirming the
14 correlation between distant viewing and local
15 viewing. So now we have five years of data
16 confirming that, plus a much more robust data
17 set from the RODP reports for the entire
18 period.

19 There have been certainly times in my
20 career when I get what I might call heartburn
21 from having a lack of data. It's often a
22 situation where I'm asked to value a very
23 obscure small business and there might only be
24 two comparable sales and, you know, minimal
25 data to base an income approach upon.

185

187

1 Sometimes I might have the luxury of
2 saying we just can't do this. Other times
3 there isn't that luxury and a decision just has
4 to be made based on the data that is available.
5 But this isn't one of those situations.

6 Having the data for every year and
7 having the data for five years now confirming
8 the relationship between the distant and local
9 viewing, I feel very comfortable with it. And
10 I went -- you know, I had mentioned before that
11 my work is very often audited and needs to be
12 documented by economic entities and auditors
13 from big firms that place it under tremendous
14 scrutiny.

15 And based on that experience, I would
16 feel comfortable with this analysis as it is,
17 particularly because of the exhaustive efforts
18 that were made to try and find everything that
19 could possibly be pertinent.

20 Q. Is the -- is the use of local viewing
21 data in one or some markets for the purposes of
22 conducting a valuation exercise in another
23 market consistent -- does it comport with your
24 experience and expertise in the field of media
25 valuations?

1 Q. When participants in the media market
2 are trying to understand value and make
3 judgments, business judgments that rely upon
4 valuation determinations, do they -- what do
5 they -- how do they assess how to consider
6 incomplete information, when complete
7 information isn't available?

8 MR. BOYDSTON: Objection, vague. The
9 initial term here, media, I'm not sure who
10 you're referring to -- who you're addressing
11 this to. Who is the subject matter of your
12 question?

13 JUDGE BARNETT: Sustained. Could you
14 rephrase the question?

15 MR. MacLEAN: Yes, Your Honor.

16 BY MR. MacLEAN:

17 Q. When you're advising a client of yours
18 in the -- on the subject of a media valuation,
19 if there is incomplete information as the
20 information available, how do you go about
21 assessing the usability of that information for
22 the purpose of advising your client and
23 assisting your client?

24 MR. BOYDSTON: Objection. I think
25 it's an incomplete hypothetical because we

186

188

1 A. Very much so, from two different
2 perspectives. One would just be generically
3 the concept of a test market that we're
4 probably familiar with. Whether you're
5 introducing a new television program or doing a
6 focus group for a movie or selling detergent,
7 you would look for markets around the country
8 that have similar characteristics and see how
9 something performs there, using that data as
10 the basis for introducing the product or
11 programming in a different market.

12 Moreover, though, as I mentioned
13 before, most of the distant signal viewing
14 isn't all that distant in that it's, you know,
15 related to markets that are adjacent to a DMA.
16 So, you know, a distant signal from Washington
17 might be in Harrisburg. Or a distant signal
18 from Baltimore might be in Hagerstown. So it's
19 basically you could almost look at it as the
20 DMA with the boundaries expanded.

21 Often in many cases, although Nielsen
22 has to make the calculation of assigning
23 counties into a DMA, they may be part of the
24 same megalopolis or part of the same market
25 that shares economic characteristics.

1 don't know what kind of a client we're talking
2 about here, i.e., are we talk about a cable
3 system operator or a movie producer?

4 JUDGE BARNETT: Overruled. It's a
5 generic question.

6 THE WITNESS: Well, as a -- as a point
7 of departure, very, very rarely do I have what
8 I would call all the information that I would
9 like. That's just the way the world is. And
10 we're often called upon to make decisions
11 without all the information that we would like.

12 So, typically, in all the analyses
13 that I do, I would, one, try to confirm one set
14 of data with another set of data as we did in
15 this case, but at the end of the day, there's
16 also an element of rationality and common sense
17 that comes into play, realizing that we're
18 going to get a good data set that points us in
19 a right direction, and if there's a couple
20 pieces of the mosaic missing, we feel confident
21 enough in that data set to start with that we
22 can move forward with it.

23 BY MR. MacLEAN:

24 Q. If you could turn to page 22 of your
25 written direct testimony.

189

1 A. Yeah, I'm there.
 2 Q. In your -- in your judgment,
 3 expertise, and experience as a professional
 4 appraiser, do these shares identified in these
 5 tables on page 22 of your written direct
 6 testimony represent a fair and reasonable
 7 allocation of cable and satellite royalty funds
 8 at issue in this proceeding?
 9 A. Yes, they do.
 10 MR. MacLEAN: No further questions,
 11 Your Honor. Thank you.
 12 JUDGE BARNETT: Why don't we take this
 13 opportunity between rounds to take our
 14 afternoon recess. It's a little early, but
 15 let's do it now, 15 minutes.
 16 (A recess was taken at 2:32 p.m.,
 17 after which the trial resumed at 2:50 p.m.)
 18 JUDGE BARNETT: Please be seated. Mr.
 19 Boydston?
 20 MR. BOYDSTON: Thank you, Your Honor.
 21 CROSS-EXAMINATION
 22 BY MR. BOYDSTON:
 23 Q. Good afternoon, Mr. Sanders. Again, I
 24 am Brian Boydston, counsel for IPG.
 25 Now, in your report at page 4 you talk

190

1 about what you reviewed in preparing your
 2 report, and you include both the direct and
 3 rebuttal testimony of IPG in the initial round
 4 of this proceeding.
 5 Do you recall that?
 6 A. Yes, I do.
 7 Q. Okay. There is no mention of other
 8 certain materials. You say that you reviewed
 9 -- except you did review the 2004-2005 Phase I
 10 decision.
 11 Do you recall that?
 12 A. I believe so.
 13 Q. And what was the purpose of reviewing
 14 that decision?
 15 A. I reviewed hundreds, possibly
 16 thousands of pages of data in connection with
 17 all the matters that I have -- that I have been
 18 involved in.
 19 Q. Okay. Was there anything in
 20 particular about that 2004-2005 decision, Phase
 21 I decision, that you were focused on?
 22 A. Not to my recollection.
 23 Q. Okay. Are you familiar with the
 24 1998-1999 cable Phase I final determination?
 25 It was for the years '98-'99, and the decision

191

1 came down in 2004.
 2 A. I'm more familiar with the 1998-'99
 3 distribution phase because that's the one I was
 4 involved in.
 5 Q. Okay. Now, you said you looked at the
 6 rebuttal testimony from the initial round in
 7 this proceeding.
 8 What efforts did you make to respond
 9 to the criticisms that were levied in those --
 10 in that rebuttal statement?
 11 A. If there was anything in those
 12 statements that were -- I deemed to be worthy
 13 of revision, they would have been made here.
 14 Q. Okay. Now, let me ask you to take a
 15 look at the -- I am going to ask you some
 16 questions about the decision I just referenced,
 17 which was the '98-'99 cable Phase I decision.
 18 MR. BOYDSTON: Your Honor, may I
 19 approach with another copy of that decision?
 20 JUDGE BARNETT: You may.
 21 MR. BOYDSTON: Thank you.
 22 BY MR. BOYDSTON:
 23 Q. Now, I won't ask you to read the
 24 entire thing because it would take kind of a
 25 long time, but perhaps just glance at it for a

192

1 minute and tell me if it refreshes your
 2 recollection, first off, as to whether or not
 3 you may have reviewed this decision in the past
 4 or not?
 5 A. I may have looked at it, but I don't
 6 have a specific recollection. It actually
 7 looks like a lot of things.
 8 Q. Okay. It is a lot of things. I
 9 realize the answer may be no, because you don't
 10 particularly recall this decision that well,
 11 but do you remember looking at any of the
 12 witness testimony cited by the Judges in this
 13 -- in this opinion?
 14 And to help you out, let me give you
 15 some names here to see if that helps.
 16 A gentleman by the name of John Ford,
 17 do you recall reviewing testimony by him?
 18 A. I don't recall.
 19 Q. James Trautman?
 20 A. I recall Trautman's name.
 21 Q. Okay.
 22 A. I don't recall specifically what I
 23 would have done in connection with this case.
 24 Q. Fair enough. Michael Egan?
 25 A. Michael Egan, I do seem to recall that

193

1 I read his testimony in one of these cases.
 2 Q. Okay. Judith Allen?
 3 A. I don't have any recollection.
 4 Q. Gregory Rosston?
 5 A. I don't have any recollection.
 6 Q. Richard Ducey?
 7 A. I do recall reading some of Ducey's
 8 testimony at some point.
 9 Q. Okay. Let me direct your attention to
 10 page 3613 of that decision. It is flagged with
 11 a Post-it for you. It will be easier.
 12 And specifically I'm referring to some
 13 of the decisions on the left, far left side,
 14 the column in the far left side of the page.
 15 And about the middle of the page there
 16 is a paragraph that begins, "after considering
 17 both the Bortz survey and the Nielsen study,"
 18 et cetera.
 19 Could you take a minute to just read
 20 that, including the quote that is in the small
 21 text in that column?
 22 A. I have read it.
 23 Q. Does that refresh your recollection,
 24 have you ever come across this notion before or
 25 this ruling before? Are you aware that this

194

1 ruling had been made at one point?
 2 A. I have a recollection of this quote
 3 appearing in some of your submissions.
 4 Q. Okay. Do you take issue with the
 5 conclusion set forth there?
 6 A. I would take issue with the
 7 utilization of this -- of this conclusion in
 8 the matter that we're discussing today.
 9 Q. And why is that?
 10 A. Well, first of all, the -- the
 11 document that you gave me relates to a Phase I
 12 hearing. So, again, I don't -- I haven't read
 13 the or don't have a detailed knowledge of the
 14 full document or the context that it has.
 15 And, additionally, in the -- in the
 16 case of the matter at hand, you know, while I
 17 have read, as I said, a considerable amount of
 18 data in connection with this matter, my primary
 19 task was to approach this as I do most of my
 20 appraisal engagements and look at what is --
 21 what information is available and then try and
 22 reach a marketplace market participant decision
 23 on that basis.
 24 Q. And a significant amount of the
 25 information you are referring to that you have

195

1 done that with is viewership ratings data,
 2 correct?
 3 A. That is correct.
 4 Q. And, in fact, that's really the
 5 bedrock of your analysis, correct?
 6 A. That is the -- the value component of
 7 the value times volume calculation.
 8 Q. Okay. You mentioned that you have
 9 some familiarity with Mr. Richard Ducey's prior
 10 testimony. Can I ask you to take a look -- may
 11 I approach, Your Honor?
 12 JUDGE BARNETT: You may.
 13 BY MR. BOYDSTON:
 14 Q. Let me ask you to take a look at what
 15 has been marked in this binder as Exhibit 31.
 16 And I will represent, you can see from
 17 the first couple of pages, it references the
 18 testimony by Mr. Ducey in that 1998-1999
 19 decision that we were just looking at.
 20 And I want to direct your attention to
 21 page 8826 of that. The numbers up in the upper
 22 right-hand corner.
 23 MR. MacLEAN: Objection, Your Honor.
 24 It is not in my binder.
 25 MR. BOYDSTON: Well, I'm sorry. You

196

1 know what, it may be in the -- may I approach,
 2 Your Honor?
 3 JUDGE BARNETT: You may.
 4 MR. BOYDSTON: It may be in the sleeve
 5 in the back. It was a bit of a late add. The
 6 pages are in the sleeve at the back. I
 7 apologize that it didn't make it in there.
 8 MR. MacLEAN: And I am now looking at
 9 what was in the sleeve in the back. I see what
 10 looks like a fragment of written testimony. It
 11 is not the complete written testimony of a
 12 witness. And it also doesn't say whose
 13 testimony it is.
 14 MR. BOYDSTON: I will represent that
 15 this is part of -- this is part of Exhibit 31,
 16 the first part of which identifies it as
 17 testimony by Richard Ducey. I just didn't get
 18 it into the binder in the correct fashion.
 19 And it is not the complete transcript.
 20 I was just only going to ask questions about a
 21 couple of things and it is not being admitted
 22 anyway, as we all know.
 23 So that's why the entire -- the entire
 24 thing is not there, only the relevant portion I
 25 was going to ask about.

197

1 MR. OLANIRAN: I have a similar
2 objection. The -- the copy of Exhibit 31 that
3 was filed with the ECRB is not what I believe
4 is provided us here.

5 MR. BOYDSTON: Well, what was filed
6 with the ECRB was the entire transcript. What
7 is here is just the part of it that I am going
8 to ask questions about, not the hundreds of
9 pages that I am not going to ask questions
10 about.

11 JUDGE BARNETT: I haven't heard a
12 question yet. So let's wait and see what the
13 context is here. Shall we?

14 BY MR. BOYDSTON:

15 Q. This was some of Mr. Ducey's testimony
16 appearing at page 8826. And he says: "The
17 relevant value being the relative value in the
18 advertising marketplace. What we're talking
19 about in this proceeding is not the advertising
20 marketplace."

21 Then there is a question: "Let me ask
22 you, when you say that ratings are not useful,
23 I guess for present purposes, is the market
24 that you're thinking about a market with or
25 without a compulsory license?"

198

1 "Answer: A compulsory license,
2 distant signal market."

3 Now, in that quotation -- in that back
4 and forth, Mr. Ducey is saying that -- seems to
5 be saying that he does not believe that ratings
6 are useful in terms of establishing value.

7 Have you ever considered, you know,
8 you said you reviewed Mr. Ducey's testimony, do
9 you recall seeing that he had this view when
10 you reviewed his testimony in the past?

11 MR. MacLEAN: Objection, lack of
12 foundation.

13 MR. BOYDSTON: Well, I am trying to
14 establish one to see if he remembers or he did.

15 MR. MacLEAN: Your Honor, the lack of
16 foundation is that there is no evidence
17 presently in the record that Mr. Ducey or
18 anybody else has said, has ever said what Mr.
19 Boydston just read. It is not in the record
20 and there is no foundation for it in the
21 record.

22 MR. OLANIRAN: Same objection, Your
23 Honor.

24 JUDGE BARNETT: Sustained.

25 MR. BOYDSTON: Well, am I at least

199

1 able to ask him if he recalled -- he said that
2 he has seen Mr. Ducey's testimony.

3 Can I ask him if he -- if that's
4 familiar, he said he had seen it before, can I
5 just at least ask if that refreshes his
6 recollection?

7 JUDGE BARNETT: You may.

8 BY MR. BOYDSTON:

9 Q. Does this refresh your recollection
10 that you reviewed Mr. Ducey's testimony in the
11 past?

12 A. My recollection, and the reason I
13 answered affirmative when you asked the
14 question, is I believe there was something in
15 Mr. Ducey's testimony indicating that he
16 wouldn't make any modifications to the Bortz
17 study. And that was my recollection.

18 I -- I don't have a clear recollection
19 of the quote that you were referring to, and I
20 didn't use it as the basis of any of my work in
21 this matter.

22 Q. Do you recall generally that Mr. Ducey
23 in his testimony was testifying consistent with
24 the -- what's in the order that we reviewed a
25 minute ago, that, to the extent that he didn't

200

1 -- he did not believe that ratings were a
2 significant factor in terms of what a CSO --
3 how a CSO valued programming?

4 A. My --

5 MR. MacLEAN: Objection, foundation
6 and relevance, as to what somebody else has
7 said in another proceeding in another time.

8 JUDGE BARNETT: Sustained.

9 BY MR. BOYDSTON:

10 Q. Well, again, you have said that you do
11 recall reviewing Mr. Ducey's testimony in the
12 past.

13 Do you recall that Mr. Ducey expressed
14 an opinion on the usefulness or non-usefulness
15 of ratings?

16 A. My --

17 MR. MacLEAN: Objection, foundation
18 and relevance.

19 JUDGE BARNETT: Sustained.

20 BY MR. BOYDSTON:

21 Q. I believe you also testified that you
22 had familiarity with Mr. Egan's testimony?

23 A. I -- I have a recollection of having
24 looked at it. Again, it didn't -- it wasn't an
25 input into the report that I did in this

201	203
<p>1 matter.</p> <p>2 Q. Do you recall that Mr. Egan also</p> <p>3 stated that, in his experience as a CSO,</p> <p>4 ratings did not play a significant factor in</p> <p>5 his assessment of value of retransmitted</p> <p>6 programs?</p> <p>7 MR. MacLEAN: Objection, foundation</p> <p>8 and relevance.</p> <p>9 JUDGE BARNETT: Relevance objection</p> <p>10 sustained.</p> <p>11 MR. BOYDSTON: Well, Your Honor, it</p> <p>12 goes to the bedrock of his testimony is the</p> <p>13 importance of ratings. And I am asking him if</p> <p>14 he recalls that another witness expressed a</p> <p>15 contrary view. I think that's relevant.</p> <p>16 JUDGE BARNETT: No. He said he did</p> <p>17 not have recollection of Mr. Egan -- the</p> <p>18 specifics of Mr. Egan's testimony.</p> <p>19 MR. BOYDSTON: Okay. I just -- I</p> <p>20 didn't hear him saying that he had no</p> <p>21 recollection of any specifics. And that's why</p> <p>22 I was asking about that one specific.</p> <p>23 I think at least I can get an answer</p> <p>24 if he has -- if he doesn't have a recollection,</p> <p>25 he doesn't have a recollection.</p>	<p>1 reasons.</p> <p>2 Number 1, my understanding from cable</p> <p>3 operators that I deal with on a routine basis</p> <p>4 is that some of them do subscribe, but,</p> <p>5 moreover, the data that's often contained in</p> <p>6 the information that one can subscribe to can</p> <p>7 be available from a variety of other sources,</p> <p>8 whether it would be other subscription</p> <p>9 services, the trade press or the promotional,</p> <p>10 you know, the promotional material that's</p> <p>11 distributed by television stations.</p> <p>12 So that when you asked if I recalled,</p> <p>13 I recalled reading it and that was the one</p> <p>14 point that came to mind.</p> <p>15 Q. Okay. And the testimony that you</p> <p>16 read, do you recall which proceeding that might</p> <p>17 have been in or whether it was oral testimony</p> <p>18 or written testimony?</p> <p>19 A. I do not.</p> <p>20 Q. Okay. Let me ask you to take a look</p> <p>21 at what has been marked as Exhibit, in that</p> <p>22 binder, 910, which is oral testimony by Mr.</p> <p>23 Egan in 1998 and 1999.</p> <p>24 And my first goal --</p> <p>25 A. I'm sorry, where am I?</p>
202	204
<p>1 JUDGE BARNETT: Well, and I think his</p> <p>2 testimony further was it had no effect on his</p> <p>3 -- on his report or his analysis.</p> <p>4 There is a way to ask the question,</p> <p>5 Mr. Boydston. You just haven't found it yet.</p> <p>6 Sustained.</p> <p>7 BY MR. BOYDSTON:</p> <p>8 Q. Okay. Let me take a step back and try</p> <p>9 and go at it again.</p> <p>10 Your testimony is you do have a</p> <p>11 recollection of Mr. Egan's testimony to begin</p> <p>12 with, correct?</p> <p>13 A. I do recall having looked at his</p> <p>14 testimony, yes.</p> <p>15 Q. Okay. So before I ask you whether it</p> <p>16 influenced you or what you thought about it or</p> <p>17 anything else, I am attempting to establish</p> <p>18 what it is, if anything, you recall about the</p> <p>19 testimony?</p> <p>20 A. I recall one point on which I</p> <p>21 disagreed with Mr. Egan. If my recollection is</p> <p>22 correct, he made a statement to the effect that</p> <p>23 cable operators do not use, subscribe to or</p> <p>24 rely upon ratings data. And that was at</p> <p>25 variance with my experience for several</p>	<p>1 Q. It is in that binder.</p> <p>2 MR. BOYDSTON: May I approach, Your</p> <p>3 Honor?</p> <p>4 JUDGE BARNETT: You may.</p> <p>5 JUDGE FEDER: What is the tab number,</p> <p>6 Mr. Boydston?</p> <p>7 MR. BOYDSTON: 10.</p> <p>8 JUDGE FEDER: Thank you.</p> <p>9 BY MR. BOYDSTON:</p> <p>10 Q. And right now my questions are only to</p> <p>11 try and see if we can identify if you recall --</p> <p>12 you said you saw testimony. Mr. Egan has</p> <p>13 testified in a couple of different ways.</p> <p>14 And I am just trying to identify if</p> <p>15 you can recall which of those materials you</p> <p>16 remember it from.</p> <p>17 If you look at page 1310 of</p> <p>18 Exhibit 10, there is a statement to the effect</p> <p>19 that you just said, which is perhaps what you</p> <p>20 are remembering, but I don't want to put words</p> <p>21 in your mouth.</p> <p>22 So if you look at 1310 between lines,</p> <p>23 approximately lines 12 and the bottom of the</p> <p>24 page, that may be what you saw. I don't know.</p> <p>25 A. And I don't either.</p>

205

1 Q. Okay. In other words, you are not
2 sure if this is what you recall seeing or
3 something else?
4 A. Correct.
5 Q. Okay. The opinion sounds consistent
6 with what you just testified about. Would you
7 agree with that?
8 MR. MacLEAN: Objection. If it is
9 consistent, then it is not impeachment.
10 JUDGE BARNETT: Sustained.
11 MR. BOYDSTON: I was just trying to
12 establish -- I wasn't trying to impeach at all.
13 I was trying to establish -- I am trying to see
14 if I can stimulate his memory on it. That's
15 all.
16 THE WITNESS: I -- I did my best
17 before to -- to describe what my understanding
18 was of what I read and what my response was to
19 it.
20 BY MR. BOYDSTON:
21 Q. Thank you. I appreciate that.
22 Let me ask you to look at what has
23 been marked as Exhibit 9021, or just 21 on the
24 tab. And that is written testimony by Mr. Egan
25 in the first round of this proceeding.

206

1 And taking a look at that, does that
2 generally refresh your recollection as to
3 whether -- well, strike that.
4 You obvious -- well, I don't know if
5 it's obvious or not -- but my recollection is,
6 and I think you stated, that you testified in
7 the first round of this proceeding. Correct?
8 A. That's my recollection.
9 Q. And this written -- this document that
10 we're looking at now is Mr. Egan's written
11 testimony in that same proceeding that you
12 participated in.
13 Does that perhaps jog your memory as
14 to whether or not you might have come across
15 his testimony in that context?
16 A. I may have come across it. And if I
17 had submitted any rebuttal testimony, that
18 might be mentioned there, but it is not
19 something that was considered in this matter.
20 Q. Could I ask you to take a look at page
21 9 of this document. And at the bottom of the
22 page there is a paragraph 16.
23 And if I could just ask you to read
24 that and then let me know when you are finished
25 reading it.

207

1 A. I have read the paragraph.
2 Q. In reading it, does that refresh your
3 recollection as to whether, perhaps, this was
4 the opinion of Mr. Egan that you recall seeing
5 before?
6 A. No.
7 Q. Okay. You understand -- do you have
8 an understanding that Mr. Egan worked as a CSO
9 in four CSOs?
10 A. That's my recollection.
11 Q. And that he had substantial experience
12 in that field, do you recall that?
13 MR. MacLEAN: Objection, relevance.
14 JUDGE BARNETT: Overruled.
15 THE WITNESS: I know that he had
16 experience. I have no recollection of -- or
17 not enough recollection to use the word
18 substantial.
19 BY MR. BOYDSTON:
20 Q. Okay. Does Mr. Egan's view change
21 your view in any way? Given that he has
22 experience as a CSO and he expresses the views
23 that he does, that you recall, why is it that
24 you don't find that to be persuasive?
25 A. From a valuation perspective, this is,

208

1 as I read it, doesn't make a lot of sense to
2 me.
3 Q. And why is that?
4 A. Because he seems to be indicating
5 there is no valuation metric that can be
6 applied to a program, simply because a system
7 has to take the whole channel, the good and the
8 bad.
9 I would argue that it is very possible
10 to ascribe values to different categories of
11 programming and then also to specific programs
12 within a category.
13 Q. And you have already testified that
14 the way to do that in your view is to use your
15 sub-ratings, correct?
16 A. I have described my methodology, and
17 that's the appropriate approach in my mind.
18 Q. Despite the fact that an experienced
19 CSO, such as Mr. Egan, says that that's just
20 not something he took into consideration?
21 MR. MacLEAN: Objection, foundation
22 and relevance.
23 JUDGE BARNETT: What's the lack of
24 foundation?
25 MR. MacLEAN: Well, the lack of

209

211

1 foundation is that there is not evidence on the
2 record in this proceeding as to what Mr. Egan
3 said in a prior proceeding.

4 The relevance objection is the
5 relevance of what a witness in another
6 proceeding, what that witness' opinion is or
7 what that witness has testified to.

8 That's the objection, Your Honor.

9 JUDGE BARNETT: Overruled. Mr.

10 Sanders can respond to -- I mean, the IPG is
11 here to challenge the witnesses who are here
12 and on the record. And so Mr. Sanders can
13 respond to this challenge such as it is.

14 Overruled.

15 THE WITNESS: May I ask you to repeat
16 the question, please?

17 MR. BOYDSTON: So we don't go through
18 it all again, may we read back?

19 THE REPORTER: "Question: Despite the
20 fact that an experienced CSO, such as Mr. Egan,
21 says that that's just not something he took
22 into consideration?"

23 THE WITNESS: And I would say nothing
24 here changes my -- changes my view.

25 Certainly the view that he has

1 So I wouldn't discount her testimony simply
2 because she is not a "cable operator."

3 Q. Okay. But she is not a cable -- she
4 was never a cable operator, correct? Just on
5 that particular factual point, I think we can
6 agree she was never a cable operator?

7 A. She was a multi-channel video
8 programming distributor just like a cable
9 company is.

10 Q. But, I mean, yes or no, she worked for
11 a cable company or not? I think the answer is
12 she did not.

13 A. To the best of my knowledge she worked
14 through a satellite company. I am just trying
15 to make the point that economically and
16 industry-wise, someone in the household doesn't
17 really make the distinction because the
18 programming is coming in, whether it is through
19 a satellite or whether it is coming in through
20 a cable.

21 Q. Did you review IPG's direct statement
22 in this matter, this portion of it?

23 A. I'm -- I'm sure that I read it at some
24 point.

25 Q. Okay. Do you recall that it referred

210

212

1 articulated here is not unanimously held based
2 upon the testimony of -- of Toby Berlin that's
3 in the record and also with my experience in
4 the industry.

5 BY MR. BOYDSTON:

6 Q. So you say it is not a unanimous
7 opinion because of Ms. Berlin's views, correct?

8 A. No, I -- I think --

9 Q. Well, strike that.

10 A. It appears that it's illogical and
11 ultimately, perhaps ultimately untenable to
12 allocate royalties among Claimants proportional
13 to the ratings, I don't -- I don't agree with
14 that statement.

15 Q. Well, now, Ms. Berlin didn't work for
16 a cable system operator. She worked for
17 DirectTV. Correct?

18 A. Yes, she did.

19 Q. And so she is not in the same shoes as
20 Mr. Egan, who worked for a CSO now, is she?

21 A. They were -- they were both what I
22 call multi-channel video distribution
23 providers, both competing in DMAs against each
24 other.

25 So competing in the same ecosystem.

1 to witnesses who had testified before,
2 including Mr. Egan, do you recall that that was
3 referenced in the IPG direct statement?

4 A. Not specifically.

5 Q. Did you ever look back and review any
6 of the testimony, prior testimony that was
7 referenced by IPG in its direct statement?

8 A. I don't have a recollection of doing
9 that.

10 Q. With regard to the 2000 to 2003
11 proceeding just between IPG and SDC that's on
12 remand, remember I asked you a question about
13 that proceeding a little earlier this
14 afternoon?

15 A. Yes.

16 Q. Now, you recall that the same
17 witnesses that had testified previously were
18 mentioned in IPG's statement in that proceeding
19 as they were here?

20 A. Yeah, I recall those names being
21 mentioned.

22 Q. Okay. And you prepared a rebuttal for
23 that 2000-2003 remand, correct?

24 A. I believe so, yes.

25 Q. And did you review any of those

213

1 opinions by those sort of people that you
2 recall seeing referenced in that proceeding?
3 A. I can't recall specifically.
4 Q. Now, is it -- would you agree with me
5 that since 1999 the fees collected for cable
6 and satellite retransmission has gradually
7 increased?
8 A. That is my understanding.
9 Q. And would you -- is there a reason to
10 believe that they have increased because of
11 increased subscribership?
12 A. That would certainly be one factor.
13 Q. Okay. Now, given that over an 11-year
14 period, the last 11 years, viewing has gone
15 down but subscribership has increased, does
16 that tell you something about the relationship
17 between subscribership and viewership? If
18 subscribership is up but viewership is down,
19 what does that tell you about the relationship
20 between those two things, if anything?
21 A. There is a lot of moving parts in your
22 -- your question. And actually cable
23 subscribership has been going down. So I can't
24 really make sense of the question. I'm sorry.
25 Q. But you agree with me that generally

214

1 subscribership generally was going up or had
2 gone up?
3 A. Perhaps in the early phase, but the
4 cable industry is under a tremendous amount of
5 pressure right now.
6 Q. Can I ask you to take a look at what
7 has been -- what is marked in that document as
8 Exhibit 32 towards the back.
9 Is this document familiar to you?
10 A. I have a recollection of seeing a
11 similar document at some point in the
12 proceedings. I am not sure which one or what
13 vintage it would have been.
14 Q. Okay. I mean, looking at these
15 numbers, wouldn't you agree with me that
16 basically there is a growth of the amount of
17 total deposits in -- as reflected in this
18 chart?
19 MR. MacLEAN: Objection, Your Honor.
20 This exhibit is not in evidence, hasn't been
21 offered, and lack of foundation.
22 JUDGE BARNETT: What's the purpose of
23 having this witness recite what's on this
24 paper?
25 MR. BOYDSTON: Well, he raised that he

215

1 was -- raising some question as to whether or
2 not fees collected had -- first he acknowledged
3 the fees collected had gone up, and then he
4 seemed to be backtracking.
5 And so now I am saying, well, does
6 this clarify for you that, indeed, fees have
7 gone up, the opposite?
8 JUDGE BARNETT: What is the relevance
9 of that line of questioning?
10 MR. BOYDSTON: Well, because I had
11 just asked him about the relationship between
12 fees increasing but -- and, therefore, likely
13 subscribership increasing, but viewing going
14 down. And he said that -- then he kind of
15 back-tracked and said he wasn't so sure if they
16 had.
17 JUDGE BARNETT: I heard your question
18 and I heard your follow-up question. But my
19 question is why? What is the relevance of that
20 line of questioning?
21 MR. BOYDSTON: That there appears to
22 be an inverse relationship between the amount
23 of viewership and the amount of subscribers and
24 fees, which suggests that viewership does not
25 predict the value of programming and the fees

216

1 collected.
2 JUDGE BARNETT: Okay. Overruled. I
3 will let him ask these questions.
4 MR. BOYDSTON: I mean, this is
5 foundational to it, so I have got to ask this
6 and then get back around the mountain to the
7 beginning.
8 BY MR. BOYDSTON:
9 Q. So would you agree with me that this
10 document seems to confirm that the amount of
11 fees collected over the years has increased?
12 MR. OLANIRAN: Objection, Your Honor.
13 The only reference to the document thus far has
14 been "this document."
15 There has been no foundation with
16 regard to what document it is, what the
17 document is supposed to represent, and I don't
18 even know if the witness understands what the
19 document is.
20 MR. BOYDSTON: Well, the witness has
21 said he recognizes the document.
22 JUDGE BARNETT: Well, good point, Mr.
23 Olaniran.
24 Mr. Sanders, what do you recognize
25 this document to be, the one that is marked

<p style="text-align: right;">217</p> <p>1 9032?</p> <p>2 THE WITNESS: No more than what it is</p> <p>3 titled to be, is a report of receipts from the</p> <p>4 licensing division.</p> <p>5 JUDGE BARNETT: So do you have any</p> <p>6 independent knowledge of this document or its</p> <p>7 contents?</p> <p>8 THE WITNESS: No.</p> <p>9 JUDGE BARNETT: So when you answer</p> <p>10 questions about this document, they are based</p> <p>11 solely on what you are looking at on the paper?</p> <p>12 THE WITNESS: That is correct.</p> <p>13 JUDGE BARNETT: Okay.</p> <p>14 BY MR. BOYDSTON:</p> <p>15 Q. Okay. But at the beginning of this</p> <p>16 line of questioning, you did agree with me that</p> <p>17 subscribership -- excuse me, fees collected</p> <p>18 have gone up in the past 11 years or so,</p> <p>19 correct? That was my first question, and you</p> <p>20 said yes.</p> <p>21 Is your answer to that question still</p> <p>22 yes?</p> <p>23 A. Well, as I am looking at this, I am</p> <p>24 not sure that these tables demonstrate that.</p> <p>25 JUDGE BARNETT: Mr. Olaniran's</p>	<p style="text-align: right;">219</p> <p>1 going to move again to admit Exhibit 9032. I</p> <p>2 think it was admitted on judicial notice. I</p> <p>3 ask that judicial notice be taken of it.</p> <p>4 If I didn't do it before, I ask now if</p> <p>5 this can be admitted based on judicial notice.</p> <p>6 MR. MacLEAN: Objection, foundation,</p> <p>7 not impeachment, and relevance, Your Honor.</p> <p>8 MR. OLANIRAN: I just have a relevance</p> <p>9 objection, Your Honor.</p> <p>10 MR. BOYDSTON: With regard to</p> <p>11 impeachment, it goes to his -- his statements</p> <p>12 in this regard in the first paragraph of his --</p> <p>13 the very -- in his own report.</p> <p>14 JUDGE BARNETT: What paragraph, Mr.</p> <p>15 Boydston?</p> <p>16 MR. BOYDSTON: It is at page 6 -- not</p> <p>17 the first paragraph, I'm sorry -- page 6 and</p> <p>18 the Figure 1 that's right there in the middle</p> <p>19 of the page 6. And it continues in Figures 2</p> <p>20 and 3 on pages 8 and 9.</p> <p>21 These all discuss viewing trends,</p> <p>22 which show decreasing viewing trends.</p> <p>23 THE CLERK: 9032 is recorded receipts</p> <p>24 for the licensing division.</p> <p>25 JUDGE BARNETT: Correct.</p>
<p style="text-align: right;">218</p> <p>1 objection is sustained.</p> <p>2 MR. OLANIRAN: Thank you, Your Honor.</p> <p>3 BY MR. BOYDSTON:</p> <p>4 Q. Do you disagree with the proposition</p> <p>5 that there is an inverse correlation between</p> <p>6 subscribership and fees collected, on the one</p> <p>7 hand, and viewership on the other, in the last</p> <p>8 11 years?</p> <p>9 JUDGE BARNETT: If you know, Mr.</p> <p>10 Sanders, without reference to the document.</p> <p>11 THE WITNESS: Yeah, there is two</p> <p>12 columns here with numbers that -- and I don't</p> <p>13 have clarity on what the columns mean.</p> <p>14 MR. BOYDSTON: Okay.</p> <p>15 JUDGE BARNETT: Without reference to</p> <p>16 the document, can you answer the question that</p> <p>17 he asked?</p> <p>18 THE WITNESS: No, I can't.</p> <p>19 JUDGE BARNETT: Okay.</p> <p>20 BY MR. BOYDSTON:</p> <p>21 Q. If I could ask you to look at the</p> <p>22 other binder, which I believe has your report</p> <p>23 in it.</p> <p>24 MR. BOYDSTON: Your Honor, actually,</p> <p>25 before -- while he is getting his binder, I am</p>	<p style="text-align: right;">220</p> <p>1 MR. BOYDSTON: Yes.</p> <p>2 JUDGE BARNETT: And, no, we will not</p> <p>3 take official notice of that document. That's</p> <p>4 -- we don't have anything to do with it and it</p> <p>5 is -- I mean, it's a public document. I</p> <p>6 suppose we could take official notice of the</p> <p>7 fact that, if it is what it purports to be, it</p> <p>8 is -- I mean, it's a public document.</p> <p>9 That still doesn't -- we're still not</p> <p>10 making the leap between Mr. Sanders' report of</p> <p>11 viewership and the licensing division's</p> <p>12 receipts.</p> <p>13 MR. BOYDSTON: Does that mean that it</p> <p>14 is admitted or not admitted?</p> <p>15 JUDGE BARNETT: We're taking official</p> <p>16 notice of it.</p> <p>17 MR. BOYDSTON: Thank you.</p> <p>18 BY MR. BOYDSTON:</p> <p>19 Q. Mr. Sanders, would you agree with me</p> <p>20 that the Figure 1 at page 6 of your report and</p> <p>21 the Figure 2 at page 8 and Figure 3 at page 9,</p> <p>22 you're representing the viewing trends there,</p> <p>23 as the title suggests, obviously, correct?</p> <p>24 A. Figures 2 and 3 are specifically</p> <p>25 related to Devotional programs. Figure 1</p>

221

1 tracks Devotional viewing and overall viewing.

2 Q. Understood. And all three of them
3 show a decrease in viewing for the various
4 categories that are represented in them,
5 correct?

6 A. That is correct.

7 Q. Now, at page 7 of your report, you
8 indicate that the RODP reports indicate that
9 SDC programming has consistently garnered about
10 12 to 13 percent of the cable ratings, and the
11 same for satellite, correct?

12 A. Could you direct me, please, to where
13 you are?

14 Q. Page 7 of your report. And it is
15 essentially in the middle paragraph of that
16 page.

17 A. I just -- you referenced a percentage.
18 I am not seeing the percentage.

19 Q. Okay. Well, you see you have figures
20 in there and that's what I'm referring to.

21 In other words, you say that in the
22 cable category the programs claimed by SDC
23 Claimants have consistently generated between 2
24 million and 3 million viewing households on an
25 annual basis within the RODPs, while IPG

222

1 Claimants have generated a fraction of those,
2 between approximately 250,000 and 400,000.

3 So those, with regard to those
4 numbers, that's where I came up with those
5 percentages.

6 I guess, let me ask you this question:
7 I assume that these numbers that you have in
8 this paragraph you believe to be accurate,
9 correct?

10 A. I believe so.

11 Q. Okay. Now, let's move to page 16 of
12 your report.

13 Now, on page 16 of your report, you
14 have some charts there which assign your
15 year-by-year allocation in cable and satellite
16 to IPG and SDC. Correct?

17 A. Yes.

18 Q. And the -- with regard to satellite,
19 focusing on the second one for satellite, you,
20 except for one year, or I think -- well, most
21 of those figures are below 2 percent for IPG,
22 correct?

23 A. That is correct.

24 Q. And yet does that -- do you think that
25 is consistent with the ratio that is set forth

223

1 on page 7 for satellite? I don't believe it
2 is. Is it?

3 A. The values in page 16, consistent with
4 Dr. Erdem's calculations, I believe have been
5 scaled for the Cable Data Corporation data,
6 whereas the data in the first table was not and
7 was really just intended to be a background
8 table tracking overall trends.

9 Q. Okay. I understand. But, in other
10 words -- well, strike that.

11 Now, the figures in the -- excuse me,
12 the tables, Figures 2 and 3 at pages 8 and 9,
13 would you agree with me that those would be
14 different if the IPG programs, Kenneth
15 Copeland, Bennie Hinn, and Creflo Dollar were
16 included in those figures as opposed to
17 excluded? That would change those, those
18 graphs somewhat, correct?

19 A. To the extent those programs
20 demonstrated households and viewing, it would
21 be additive.

22 Q. It would increase it?

23 A. Correct.

24 Q. Now, would you agree with me that,
25 based upon your analysis of the RODP figures,

224

1 that a relatively few number of programs tend
2 to dominate this category, in that about 10
3 programs out of 110 account for about
4 61 percent of the major viewing, as reflected
5 on page 9?

6 A. That's my understanding.

7 Q. And is it also accurate that, you
8 know, as reflected -- sorry.

9 Is it also accurate, as reflected on
10 page 10 of your report, that the number of
11 Devotional-rated programs has decreased between
12 2004 and 2009, from 54 to 33, that are
13 reflected here?

14 A. I believe that's what my report says.

15 Q. Now, couldn't one explanation for that
16 be that Nielsen's limited measurements in
17 Devotional programming are responsible for
18 that, for that fact?

19 A. I think the more likely explanation is
20 that there has been a migration of Devotional
21 programs to cable-only channels combined with,
22 you know, the churn or the erosion in what I
23 would consider to be minor programs.

24 Q. Well, would you agree with me that
25 zero viewing instances are high in this

225

227

1 category because of the limited size of the
2 category?
3 Well, I will take out the word high.
4 Would you agree with me that there are a number
5 of zero viewing instances in this category, in
6 part because it is a small -- a smaller
7 category than, say, the Program Suppliers
8 category?

9 A. There are -- there are incidences of
10 zero viewing for both Claimants.

11 Q. And that's -- that's certainly, I
12 would agree with you, is that, in part, that is
13 because the sample size of Devotional programs
14 that we're looking at here is relatively small
15 compared to other categories like the Program
16 Suppliers category, or sports?

17 A. When you're -- when you're -- and I
18 think I have testified to this in prior
19 proceedings when -- when the rating for a
20 program in this genre might be between a one
21 and a three, there is a higher probability that
22 it will get carets, which is the, you know, the
23 Nielsen symbol in the books for not measurable.

24 Q. Have you calculated the amount of zero
25 viewing instances for these programs?

1 what is the reason in your mind?

2 A. The reason by and large is that they
3 are not generating significant viewing.

4 Q. And so that the Nielsen mechanism for
5 trying to make these determinations will not
6 see those small programs, correct, and has not
7 seen those small programs, doesn't register
8 them, so to speak?

9 A. For good reason.

10 Q. Perhaps so, but I am just confirming
11 that that is the case.

12 They are essentially systematically
13 left out of the analysis because of their small
14 size, correct?

15 A. It -- it just seems to me like an
16 application of commonsense.

17 Q. It may be, but I am just asking if --

18 A. Yeah.

19 Q. -- if we agree that that is what is
20 going on here?

21 A. Well, a program with no -- with
22 minimal viewing is not going to show evidence
23 of viewership.

24 Q. In using these metrics or using this
25 system, the Nielsen rating system, it doesn't,

226

228

1 A. I don't have a recollection of
2 calculating that.

3 Q. Is there a reason you didn't try to
4 calculate that?

5 A. I just don't have a recollection of
6 it.

7 Q. Is it something that you think would
8 be a good thing to do, to produce an accurate
9 opinion on this issue?

10 A. It would be of minimal incremental
11 benefit in my mind.

12 Q. Why is that?

13 A. The programs that we -- that we're
14 capturing here are the ones that generate
15 substantial viewing. The ones that don't are
16 either -- simply don't generate the audience or
17 fall outside of the Nielsen protocols.

18 Q. I think that's a systemic issue,
19 correct? That's because the nature of this
20 process and the nature of the Nielsen
21 collection is such that some of these smaller
22 shows just don't show up, correct?

23 A. In my mind they don't show up for a
24 reason.

25 Q. And the reason is the nature -- well,

1 correct?

2 A. Yes, which is a widely accepted and
3 credible system.

4 Q. And it may be that it is not watched
5 very much, but it could also be that there is
6 just too few data points to perceive it using
7 the Nielsen data, correct?

8 A. The Nielsen protocols are designed to
9 capture viewing that would be relevant to
10 decision-makers.

11 Q. Well, okay. And one of the reasons
12 why certain programs just don't show up with
13 any kind of a rating at all, is that
14 possible -- isn't it, frankly, likely, that
15 part of the reason for that is the manner in
16 which Nielsen collects its data? If it
17 collected its data in a more exacting way, say
18 with a meter on every television, then it
19 probably would pick it up, unless literally no
20 person is ever watching the shows, correct?

21 A. If people were watching the shows in
22 meaningful numbers, then I think they would
23 show up under the existing protocols.

24 Q. Now, on page 13 you say that sweeps
25 ratings are the primary basis upon which

229

1 programming and advertising decisions are made,
2 correct?

3 A. I won't read the exact line, but I
4 will take you at your word that it's in there.

5 Q. I think it is the first full sentence
6 of the page 13, or within that.

7 A. Yes.

8 Q. And you also assert that Nielsen data
9 is the -- excuse me -- that it's also accurate
10 that -- excuse me -- that Nielsen data is the
11 primary source of data for decisions related to
12 program selection and scheduling? You say that
13 at page 15, correct?

14 A. I believe so.

15 Q. Now, your statements here are limited
16 to broadcaster decisions, not CSO and SSO,
17 satellite decisions, correct?

18 A. I would not say that that's correct.

19 Q. Okay. Now, CSOs and satellite
20 operators don't receive any portion of the
21 advertising dollars received by broadcasters,
22 do they?

23 A. That is correct. Unless, of course,
24 you say some of the advertising dollars get
25 translated into fees.

230

1 Q. Well, but they don't actually receive
2 advertising dollars, correct?

3 A. Right.

4 Q. Now, so for the CSOs and the SSOs, in
5 terms of making money, they are not making
6 money off of advertising. They are making
7 money off of subscribers. Correct? That's
8 where they get their money. They don't get a
9 check from a broadcaster. They get a check
10 from subscribers. Correct?

11 A. I think it is a little more
12 complicated than that because certainly,
13 particularly in the latter years of this, cable
14 companies didn't just make money off of selling
15 video services to subscribers. They were also
16 selling high-speed Internet. They were
17 becoming telephone companies.

18 They generated advertising on their
19 own, either on a system-by-system basis or as
20 part of an interconnect. So the video, you
21 know, is obviously a component of it, but it's
22 a lot more complicated multi-stream business.

23 Q. Well, in terms of where they get their
24 money related to video content, it is from
25 subscribers' fees, not from some other source,

231

1 obviously?

2 A. That sounds correct to me.

3 Q. And this is what was elaborated in the
4 order that we have been -- the decision that
5 was in front of you. That was in that order as
6 well. Do you recall that or not?

7 A. I recall that point being made
8 multiple times during the various proceedings
9 that I have read related documents to.

10 Q. Now, in the past you have criticized
11 experts that were proffered by IPG, including
12 Dr. Laura Robinson and Dr. Cowan, because they
13 used methodologies that did not consider
14 viewing as a variable. Correct? You had a --
15 you critiqued them for that. Is that fair?

16 A. That sounds correct.

17 Q. And you indicate that variables such
18 as the number of people who watch a program is
19 important, obviously, for valuing a
20 retransmitted program?

21 A. That --

22 Q. That's the bedrock of your analysis,
23 correct?

24 A. That viewer -- viewership begets
25 subscribership. I think I said that earlier.

232

1 Q. Okay. So based on that, I presume
2 that you would criticize any methodology that
3 does not look at viewing demographics or
4 viewing ratings?

5 A. I might say it more generally, that I
6 would be skeptical of a methodology that didn't
7 have a value-related component to it.

8 Q. And are you aware of any party
9 calculating value based on viewing
10 demographics, including the SDC, in any
11 proceeding? I am focusing on viewing
12 demographics as opposed to ratings, but viewing
13 demographics.

14 A. Demographics are a component of the
15 ratings. The ratings data, if you look in
16 those books, typically breaks it down into
17 demographic subsets.

18 Q. Okay. But are you aware of anyone in
19 any of these proceedings, any party in any of
20 these proceedings, basing their -- part of
21 their calculation of value on demographics
22 specifically, not demographics included as part
23 of an analysis of ratings, but specifically on
24 demographics, i.e., perhaps saying, well, this
25 program gets a lousy rating but their

233

1 demographics are really strong?

2 A. Could I ask you to repeat that
3 question?

4 Q. Yeah. What I think -- I think maybe
5 the way I just said it a second ago is best.
6 But are you aware of any party in any of these
7 proceedings that as part of its value -- its
8 methodology to assign value, specifically
9 analyzes demographics of viewing, divorced from
10 just sheer volume of viewing?

11 A. Well, if you said any party in any
12 proceeding, it would seem like the survey
13 approach is to some degree, by looking at the
14 categories, would have to be a reflection of
15 the demographic -- demographic complexion of the
16 market that they are operating in.

17 Q. So, I'm sorry, does that mean that you
18 think that somebody is using demographics in
19 their methodology?

20 A. Well, in my experience, demographic
21 data is used ubiquitously. I'd be surprised if
22 anyone -- if it was totally ignored from the
23 decisions that we're talking about, but I don't
24 have a specific recollection of the
25 demographics playing into the calculations in

234

1 this case.

2 Q. Now, the last time that you appeared
3 in this proceeding you testified that you had
4 never performed an analysis as to the value of
5 retransmitted programming, nor had anyone at
6 your firm done that.

7 This seems inconsistent with your
8 updated curriculum vitae. What is the status
9 of your lack of work experience in this area?
10 Do you have a lack of work experience in this
11 area?

12 A. If you could point me to what you are
13 talking about, I will try to address it.

14 Q. I guess the place to look is your
15 curriculum vitae, which is actually a different
16 exhibit -- well, no, it's not. It's Exhibit A
17 to your report.

18 And what I am specifically getting at
19 is your testimony in the last proceeding was
20 that you didn't -- that you had never performed
21 an analysis as to the value of retransmitted
22 programming.

23 I am simply trying to get at whether
24 or not that is still your testimony or not?

25 A. I think my testimony now would be

235

1 consistent with what it was then.

2 Q. Okay. And that is what?

3 A. Well, you know, particularly when you
4 have got a situation like this where the value
5 is currently dictated by a regulatory regime,
6 there isn't much of a need for someone to do an
7 independent valuation. So logically it
8 wouldn't be a big part of the work that I do.

9 But, as I said, I have not
10 specifically been retained to advise a cable
11 company on what distant signal to import.

12 Q. Okay. And -- I don't know, I think
13 you may have testified in this regard before
14 but I just want to confirm -- you have never
15 spoken with a cable system operator or a
16 satellite system operator to ask them what
17 their concerns are when they are determining if
18 they should retransmit a specific station or
19 not, correct?

20 A. I think that's something that has come
21 up numerous times over the years during the
22 course of the routine work that I do.

23 Q. And have you ever given specific
24 information or specific direction to someone in
25 regard to such a request?

236

1 A. Not to my recollection. It is an
2 economic factor that might play into the
3 overall valuation of the business. And as I
4 have characterized it before, it is a thin
5 slice of a thin slice, and that's the
6 appropriate amount of attention.

7 Q. Okay. Let's talk about the Nielsen
8 distant data availability matter.

9 Now, wouldn't you agree with me that
10 instead of using local ratings to impute
11 distant viewership, it would be probably
12 preferable to just use distant viewership
13 information itself, correct?

14 A. I think, you know, any -- any project
15 has got to be looked at in terms of the full
16 universe of data that is available.

17 In this particular case, the RODP data
18 was available uniformly over the entire period.

19 Q. Well, you could have obtained Nielsen
20 data for the years 1999-2003 and 2008-2009,
21 correct? I mean, that was something that you
22 could have obtained, distant viewership data, I
23 mean?

24 A. Well, I think distant viewership data
25 was built into this analysis for '99 to '03 as

237

1 a confirmatory approach.

2 Q. Okay. Well, I won't comment one way
3 or the other, but Nielsen data could have been
4 obtained for 2008-2009, distant Nielsen data,
5 correct? I mean, it could have been purchased.
6 Do you have any reason to say it couldn't have
7 been or it didn't exist?

8 A. I believe that there was -- that based
9 upon my reading of some of the submissions in
10 this matter, that the MPAA had data for those
11 years.

12 Q. Well, in your report you say that
13 Nielsen data was unable to -- rather, that
14 Nielsen was unable to provide information for
15 1999 through 2009, and that that's why it
16 wasn't used. That's what you said in your --
17 in your statement.

18 A. From what year to what year?

19 Q. '99 to 2009.

20 A. Well, I wouldn't say it was not -- I'm
21 sorry.

22 Q. The words that I see in your report
23 are that Nielsen was unable to provide any
24 information with regard to 1999 to 2009 distant
25 --

238

1 JUDGE FEDER: Mr. Boydston, can you
2 point us to a page number, please?

3 MR. BOYDSTON: I believe this is at
4 page 14. It is the end of the first paragraph.
5 To put it in context, one can glance at the
6 whole first paragraph. But the last sentence
7 in which it appears says, "despite extensive
8 efforts by the SDC to obtain out-of-market
9 viewing data, including multiple conference
10 calls with Nielsen in which I was a
11 participant, Nielsen was unable to provide any
12 information with regard to the years at issue
13 in these proceedings."

14 BY MR. BOYDSTON:

15 Q. I guess my point is, I don't think
16 that is quite entirely accurate. They could
17 have provided information from '99 to 2003 and
18 2008 and 2009, correct?

19 So that's not actually -- it is not
20 the case that they were unable to provide
21 information exactly. They didn't. It wasn't
22 bought by the SDC. But it is not because
23 Nielsen was unable to provide it, was it?

24 And, in fact, what you just mentioned,
25 that they did a study for the MPAA from '99 to

239

1 2004 and 2008-2009. So we know Nielsen could
2 have done it.

3 A. Yeah, there was a limitation on that
4 data and I just don't recall exactly what it
5 was.

6 Q. Well, but apparently there wasn't any
7 limitation from the MPAA, correct?

8 A. I'd have to go back to the timing of
9 the preparation of this. I -- I just -- I felt
10 to the best of my knowledge that we dug and
11 scrounged to get the most comprehensive basic
12 data that we could to complete this task.

13 Q. But ultimately didn't purchase some of
14 the information that could have been purchased,
15 correct?

16 A. I just don't know what the deal was
17 with the -- I don't -- I don't have a solid
18 recollection of what the -- what the situation
19 was with the -- with the later one year's worth
20 of data.

21 Q. Now, do you acknowledge that the
22 sweeps reports that are used do not measure all
23 Devotional broadcasts; in other words, it
24 excludes specials and programs not broadcast
25 three days a week and things like that,

240

1 correct?

2 A. Um-hum. Excuse me, yes.

3 Q. Nonetheless, you state that these
4 unrated programs that I just described are
5 insignificant in value because you don't think
6 people would be likely to subscribe or not to a
7 particular CSO based upon those programs being
8 available?

9 A. To attract a subscriber, I would argue
10 there has to be some level of predictability to
11 the program. So if you know that a program is
12 going to be aired five days a week, that's
13 something that someone could subscribe to with
14 some level of certainty.

15 If it is something that may or may not
16 be aired several times a year, as a special,
17 there is no way of foreseeing that.

18 Q. Okay. But you have done no analysis
19 as to what ratings those -- those sorts of
20 programs have resulted in, have you?

21 A. To the best of my knowledge, no one
22 has.

23 Q. Okay. Including you, correct?

24 A. I -- I certainly didn't go out and
25 collect my own ratings.

241

1 Q. Well, you didn't -- you also didn't
2 purchase information -- strike that.
3 So your methodology accords no value
4 to those programs, correct?
5 A. Yeah, my methodology accords value to
6 the programs that are -- that appear in the
7 Nielsen data.
8 And I would also reiterate my point.
9 There is nothing that would lead me to believe
10 that one side or the other to these proceedings
11 would -- would be, you know, would benefit or
12 have a detriment from that, as something that
13 would likely cut across the board.
14 Q. Well, isn't it commonsense that a
15 special program, i.e., one that doesn't appear
16 regularly all the time, it's unique, would have
17 some sort of unique appeal to viewers, that's
18 why they make specials in the first place,
19 isn't that commonsense?
20 A. That's a possibility, but it is a huge
21 leap with -- without any evidence that I have
22 been able to ascertain that that would result
23 in an incremental subscriber.
24 Q. Isn't it possible that some of the
25 viewing public might want to subscribe to a

242

1 particular CSO because they have programs that
2 are -- that are special in nature, that are
3 unique, that are not just the regular old fare?
4 A. A lot of things are possible, but I
5 have to base my decisions in all the appraisals
6 that I do on, you know, some modicum of
7 documented evidence.
8 Q. Are you familiar with the Lifetime
9 Network?
10 A. I'm familiar with it by name.
11 Q. Are you -- you understand they
12 regularly have special programming on the
13 Lifetime Network?
14 A. I actually don't. I don't watch it
15 enough to know.
16 Q. Are you familiar with the Hallmark
17 Channel?
18 A. Yes.
19 Q. And are you familiar that that's
20 primarily a channel that features what one
21 might be called specials because it is not just
22 the same sort of program over and over again,
23 is it?
24 A. Well, I think there are a lot of
25 reruns on the Hallmark Channel, but there may

243

1 be specials as well.
2 Q. It is not syndicated television?
3 A. It's its own pay channel, certainly
4 distinct and apart from the distant carriage of
5 a television signal.
6 Q. And wouldn't you agree with me, it is
7 sort of commonsense, but the reason there is
8 appeal to that is because it has programming
9 that is not done five days a week and is not
10 done over and over again, but it's unique, it
11 has unique programming each week or day or
12 whatever?
13 A. Well, each -- each pay channel is
14 going to be different, just like HBO is going
15 to show new movies, not the same thing over and
16 over again.
17 MR. BOYDSTON: One minute, if I may.
18 Your Honor, I want to direct the Judges'
19 attention to page 17 of Mr. Erdem's -- excuse
20 me, Mr. Sanders' report, and the parties.
21 And there is some conclusions here
22 that I would like -- that I am going to move to
23 strike because my -- because it is beyond the
24 scope. We believe it is beyond the scope of
25 his expertise as we established at the

244

1 beginning of Mr. Sanders' testimony.
2 Specifically, the last sentence of the
3 partial paragraph on page 17 that begins with
4 the words "to allocate reasonably the available
5 funds" -- I'll just read the whole thing -- "to
6 allocate reasonably the available funds between
7 SDC and IPG in this proceeding, it is my
8 opinion that audience measurements relying on
9 surveys conducted by Nielsen together with data
10 from the Copyright Office records compiled by
11 the CDC are the best available tools to
12 determine shares."
13 I move to strike that sentence.
14 MR. MacLEAN: Your Honor, Mr. Sanders
15 is qualified as an expert in valuation of media
16 assets, including television programs. I think
17 that this sentence more or less perfectly
18 encapsulates his opinion based on that
19 expertise.
20 JUDGE BARNETT: It is hard for me to
21 see how that is not a valuation. Overruled.
22 MR. BOYDSTON: And then at the middle
23 of the full paragraph beginning "one of the
24 reasons," there is a sentence that begins "in
25 my opinion" -- I will read it in full -- "in my

245

1 opinion where programs are homogenous, the most
2 salient factor to distinguish them in terms of
3 subscribership is the size of the viewing
4 audience."

5 And I move to strike that as beyond
6 the scope of his expertise.

7 MR. MacLEAN: Again, Your Honor, this
8 is one of the inputs into his valuation opinion
9 as an expert appraiser, an expert in valuation
10 of media assets, including television
11 programming.

12 JUDGE BARNETT: I think that that is a
13 component of his valuation. Overruled, Mr.
14 Boydston.

15 MR. BOYDSTON: Okay. And then on this
16 page, also at the end of that paragraph, the
17 sentence that begins "Nielsen ratings" which
18 reads, "Nielsen ratings data is the currency of
19 the broadcast satellite and cable industries
20 and is generally regarded as the most reliable
21 available measure of audience size."

22 Move to strike.

23 MR. MacLEAN: Again, Your Honor, it's
24 an input into Mr. Sanders' valuation opinion as
25 an expert appraiser in media assets, including

246

1 television programming.

2 JUDGE BARNETT: Overruled.

3 MR. BOYDSTON: Your Honor, and
4 actually this entire, now that I see it, this
5 entire paragraph that begins "one of the
6 reasons" I believe should -- the other portions
7 of it should also be stricken because, now that
8 I'm looking at them, they have the same issue,
9 I believe.

10 I realize you overruled or, rather,
11 you did not strike the middle sentence. But
12 the first sentence reads, "one of the reasons
13 that cable and satellite operators value
14 Devotional programming as a category is that it
15 appeals to a class of potential subscribers who
16 are not necessarily captured by other
17 programming like sports or movies, for
18 instance, but programs claimed within the
19 category of Devotional programming are directed
20 predominantly to a Christian audience and can,
21 therefore, be thought of as homogenous in terms
22 of subscriber base to which they are likely to
23 appeal."

24 I move to strike that on the grounds
25 that it is beyond his expertise.

247

1 JUDGE BARNETT: We will take those two
2 sentences under advisement. I would like to
3 consult with my colleagues on that.

4 MR. BOYDSTON: Thank you, Your Honor.

5 And then the sentence that begins,
6 it's the last sentence I haven't covered in
7 this, it begins "a religious program" -- and
8 I'll read it -- "a religious program with a
9 larger audience is more likely to attract and
10 retain more subscribers for the cable system
11 operator and is, therefore, of a
12 proportionately higher value."

13 I move to strike that as beyond the
14 scope of his established expertise.

15 JUDGE BARNETT: We will include that
16 in our discussions.

17 MR. BOYDSTON: Thank you, Your Honor.

18 JUDGE BARNETT: Mr. MacLean, would you
19 -- did you want to respond on those three
20 sentences?

21 MR. MacLEAN: Your Honor, all three of
22 these sentences are discussing directly the
23 valuation inputs that Mr. Sanders has
24 considered as a professional appraiser in the
25 valuation of media assets in doing television

248

1 programming, which is exactly what he is
2 qualified as an expert to testify in.

3 I will point out that the concluding
4 sentence in this -- in this -- well, all the
5 sentences in this particular paragraph are
6 centered around this idea of value. That's the
7 way the paragraph starts. It's the way the
8 whole paragraph reads. It's about value, and
9 that's what he is an expert in.

10 JUDGE BARNETT: Thank you. Mr.
11 Boydston?

12 MR. BOYDSTON: It is all premised on a
13 valuation -- excuse me. It is all premised on
14 a valuation that is premised on -- that is
15 beyond his expertise, which is what a cable
16 system operator values and does not value and
17 how he makes decisions and when he licenses
18 this or not.

19 And, excuse me, in addition, I am
20 going to move to strike page 18, up through the
21 middle of the first full paragraph of page 19,
22 which I can either describe or read into the
23 record, whichever you think is more efficient.

24 JUDGE BARNETT: Are there specific
25 sentences or you are saying the entire?

249

251

1 MR. BOYDSTON: The entire part from
2 Roman numeral VIII on page 18 to the sentence
3 that begins "local viewing data," on page 19,
4 the sentence that begins "local viewing data is
5 routinely employed in the broadcasting and paid
6 television industries to facilitate a multitude
7 of practical decisions ranging from pricing,
8 advertising, and determining cost of syndicated
9 programs to establishing the value of a pay
10 television network measuring the payback on a
11 capital investment."

12 And, again, I can read the in-between
13 part if you need me to.

14 JUDGE BARNETT: So you are including
15 that sentence in the part that you are
16 objecting to?

17 MR. BOYDSTON: I am. Thank you.

18 JUDGE BARNETT: Okay. Thank you. We
19 will consult on those portions. Did you want
20 to respond to those, Mr. MacLean?

21 MR. MacLEAN: I have no different
22 response than before. These are all inputs
23 into a valuation decision by an expert who is
24 qualified as an expert appraiser in the field
25 of media assets, including television

1 dire, moved to disallow this witness as an
2 expert witness and you had a particular
3 narrower basis.

4 What -- can you repeat, if you can
5 take a moment, what was that narrower basis?

6 MR. BOYDSTON: That I was talking
7 about at the beginning?

8 JUDGE STRICKLER: Yes, about when you
9 were doing the voir dire.

10 MR. BOYDSTON: Right. I mean, I don't
11 know if it was narrow or not, but what it was

12 --

13 JUDGE STRICKLER: Well, whatever it
14 was. Forget the characterization.

15 MR. BOYDSTON: Sure, whatever it was.
16 Maybe it was narrow. It was that the
17 decision-making process of a CSO is beyond --
18 let me be more specific.

19 The decision-making process in
20 deciding whether or not to pay the licensing
21 fee for a particular retransmission by a CSO,
22 that decision-making process is beyond the
23 scope of his expertise because he has no
24 experience -- he doesn't have sufficient
25 experience in that field, and I don't think he

250

252

1 programming.

2 JUDGE BARNETT: Thank you.

3 MR. BOYDSTON: And I am almost done.
4 Page 21, the first full sentence -- or, no, the
5 second full sentence is "consequently, any
6 determination of the relative fair value of the
7 distant signal programming related to the Phase
8 II Devotional parties may be subject to
9 adjustment to reflect the audiences
10 attributable to these programs."

11 I move to strike.

12 MR. MacLEAN: I have no further
13 response other than the response that I have
14 given.

15 JUDGE BARNETT: Thank you, Mr.
16 MacLean.

17 I would like to consult with my
18 colleagues on these.

19 MR. BOYDSTON: I'm sorry, Your Honor?

20 JUDGE BARNETT: We will consult.

21 MR. BOYDSTON: Thank you. And I just
22 have a couple more and then I will be done.
23 Two more.

24 JUDGE STRICKLER: Just before you do
25 that, if I recall correctly, you, after voir

1 has any experience in that field. He said he's
2 consulted, but that's all he said he has done.

3 He has never been in the shoes of
4 making that decision and making that call.

5 JUDGE STRICKLER: And, Mr. MacLean,
6 your response was that is not what he is being
7 offered for so that wasn't a very good reason
8 to deny his -- us qualifying him as an expert
9 witness, right?

10 MR. MacLEAN: That's exactly correct,
11 Your Honor. If I could be permitted just to
12 expand on that just a moment to explain what I
13 think is the distinction.

14 JUDGE STRICKLER: Well, we already did
15 the voir dire, so we don't need to go over it
16 again. You just agreed that's what it was, so
17 that's good. Thanks.

18 MR. MacLEAN: Nothing more.

19 JUDGE BARNETT: And, Mr. Boydston, let
20 me just be sure that I'm understanding what you
21 are meaning because these are compulsory
22 licenses. A CSO doesn't get to decide whether
23 to pay a license fee or not on a
24 retransmission.

25 MR. BOYDSTON: What I mean is he

253

1 chooses, okay, we're going to retransmit this
2 signal, this transmission, and, therefore, you
3 must pay a license for it. In other words,
4 it's the choice that he makes that we're
5 talking about here, right.

6 I know it is not a choice as to
7 whether or not he pays it or not. It is
8 whether or not -- what he selects.

9 JUDGE BARNETT: Thank you. I just
10 wanted to clarify because --

11 MR. BOYDSTON: Right, not a question
12 of whether or not --

13 JUDGE BARNETT: -- a CSO doesn't get
14 to choose whether to pay a fee or not.

15 MR. BOYDSTON: No, no, he just gets to
16 choose whether or not he runs those programs
17 and, therefore, has to pay a fee.

18 The last two groups, the two things I
19 am moving to strike would be on page 21, in the
20 middle sentence -- or, excuse me, middle
21 paragraph, that is paragraph K, or 10, there is
22 a sentence at the very beginning that begins
23 with the words "I fully endorse his approach."

24 And it reads "I fully endorse his
25 approach which relies on the sophisticated

254

1 assessment of local viewing and distant
2 subscribership as principal tools for
3 allocating shares."

4 I move to strike that that's beyond
5 his expertise. It may be in the expertise of
6 Mr. Erdem, but it is not in his.

7 JUDGE BARNETT: We will include that
8 in our discussion.

9 MR. BOYDSTON: Thank you. And then
10 the last section I am referring to begins --
11 it's the conclusions that is on page 21, not
12 the first sentence but the first -- the second
13 full paragraph of that, which says "based on
14 actual practices" -- and shall I -- I will read
15 it.

16 It's "based on actual practices in the
17 broadcasting and pay television industries, it
18 is clear that any methodology must reflect the
19 popularity of the two groups of Devotional
20 programming. Nielsen and distant subscriber
21 data are the key tools to measure each
22 compensable program's popularity and, hence,
23 its value. This methodological approach
24 comports with the procedures that are actually
25 employed by broadcasters and satellite

255

1 companies to make programming decisions."

2 Continuing on to the next page, it
3 will be the first full paragraph on the next
4 page, and then that's all. The first full
5 paragraph does read "the methodology in" --

6 JUDGE BARNETT: You don't need to read
7 the whole -- if it's the whole paragraph, we
8 can read it.

9 MR. BOYDSTON: Yes, the whole
10 paragraph which ends with Footnote 3.

11 JUDGE BARNETT: Thank you.

12 MR. BOYDSTON: I believe I am done. I
13 just need to check a note.

14 BY MR. BOYDSTON:

15 Q. Quickly, are you aware of how fees are
16 calculated for CSOs and SSOs in their
17 statements of account that they file with the
18 Copyright Office?

19 A. Generally.

20 Q. And are you aware that it is
21 predominantly based on what is called a Form 3
22 system and it depends upon the number of
23 subscribers to the system?

24 A. Or subscriber equivalent units.

25 Q. Okay. And, therefore, the calculation

256

1 of number of subscribers essentially is the
2 same or at least parallels the calculation of
3 the fees; the more subscribers or subscriber
4 units, the more the fees, correct?

5 A. I know there is some more complex
6 elements at the calculus, that a system will
7 pay some fee, whether they carry a distant
8 signal or not, and then the amount may vary
9 somewhat based upon the number of signals and
10 the type of signals.

11 Q. Okay. But other than a baseline fee,
12 it basically depends -- the fee depends
13 primarily upon number of subscribers, correct,
14 if you know?

15 A. To a degree.

16 Q. And so what -- to what degree does it
17 not?

18 A. Well, as I said, it is a complicated
19 calculus so it wouldn't be directly
20 proportional to subscribers starting at zero.

21 Q. And what part -- what -- are you aware
22 of these other parts of the calculus that
23 change that?

24 A. Just as I said, that you are paying
25 something at the outset, whether you are

<p style="text-align: right;">257</p> <p>1 getting something or not.</p> <p>2 Q. And anything beyond that?</p> <p>3 A. Again, my understanding is that there</p> <p>4 is some type of a sliding scale, the first,</p> <p>5 second, the third signals, and also depending</p> <p>6 on what type of station it is.</p> <p>7 Q. Okay. And now the percentage of</p> <p>8 retransmission royalties attributable to CSOs</p> <p>9 that carry only local stations and, therefore,</p> <p>10 pay that basic minimum fee, do you know what</p> <p>11 percentage that is?</p> <p>12 A. No.</p> <p>13 Q. Would you disagree with me if I said</p> <p>14 it was less than 1 percent?</p> <p>15 A. I'd have no -- no basis to agree or</p> <p>16 disagree.</p> <p>17 Q. Thank you.</p> <p>18 MR. BOYDSTON: I have nothing further.</p> <p>19 JUDGE BARNETT: Anything from Program</p> <p>20 Suppliers?</p> <p>21 MR. OLANIRAN: None, Your Honor.</p> <p>22 JUDGE BARNETT: Mr. MacLean?</p> <p>23 REDIRECT EXAMINATION</p> <p>24 BY MR. MacLEAN:</p> <p>25 Q. Mr. Sanders, as to those programs for</p>	<p style="text-align: right;">259</p> <p>1 A. That it was just not available at any</p> <p>2 cost.</p> <p>3 Q. With respect to the 1999 to 2003</p> <p>4 distant viewing sweep data that we used, do you</p> <p>5 have an understanding as to when that data was</p> <p>6 compiled by Nielsen?</p> <p>7 A. I don't know exactly when it was</p> <p>8 compiled, but I have an idea of when it became</p> <p>9 available for the SDC to use in this case.</p> <p>10 Q. So you don't know when -- when the</p> <p>11 actual generation of that data took place?</p> <p>12 A. That's correct.</p> <p>13 Q. Finally, I wanted to ask you, you</p> <p>14 received a number of questions about whether</p> <p>15 you agree or disagree with certain statements</p> <p>16 that may have been made by other witnesses in</p> <p>17 past proceedings, and I want to ask you about a</p> <p>18 related one.</p> <p>19 So I am just going to read the</p> <p>20 question and answer, and I just want you to</p> <p>21 tell me whether you agree or disagree with the</p> <p>22 statement.</p> <p>23 So the question: "So when you're</p> <p>24 programming on a program-by-program basis, if</p> <p>25 you have two similar programs that satisfy the</p>
<p style="text-align: right;">258</p> <p>1 which for whatever reason we did not have</p> <p>2 ratings data from the RODPs, did you receive</p> <p>3 any ratings -- any information about ratings</p> <p>4 with regard to those programs from IPG or any</p> <p>5 other source?</p> <p>6 A. I did not.</p> <p>7 Q. You received a few questions relating</p> <p>8 to estimates of distant viewing that MPAA in</p> <p>9 these proceedings received in the -- or used in</p> <p>10 the -- for the years 2008 and 2009.</p> <p>11 Do you have any understanding as to</p> <p>12 whether the data that MPAA used for those</p> <p>13 purposes for 2008 and 2009 was sweep data or</p> <p>14 National People Meter data?</p> <p>15 A. My understanding is that it was meter</p> <p>16 data.</p> <p>17 Q. Did -- on your various conference</p> <p>18 calls with Nielsen -- of which, of course, I</p> <p>19 was a participant as well -- did we request</p> <p>20 from Nielsen sources of distant viewing sweep</p> <p>21 data for the years subsequent to 2003?</p> <p>22 A. Yes, we did, multiple times.</p> <p>23 Q. And what in general terms was the</p> <p>24 answers that we received from Nielsen multiple</p> <p>25 times?</p>	<p style="text-align: right;">260</p> <p>1 same niche and you have to make a decision as</p> <p>2 to which one you're going to transmit, they</p> <p>3 both would satisfy that niche, if you look at</p> <p>4 -- if you look at all for that to determine</p> <p>5 which one will do a better job of attracting</p> <p>6 those niche viewers?</p> <p>7 "Answer: If you had ratings that</p> <p>8 would tell you that, you would look at that for</p> <p>9 sure."</p> <p>10 Would you agree or disagree with that</p> <p>11 statement?</p> <p>12 MR. BOYDSTON: Objection, Your Honor.</p> <p>13 This goes right to the heart of the CSO</p> <p>14 decision-making process and whether or not he</p> <p>15 is qualified to say what a CSO would do in that</p> <p>16 context with that information.</p> <p>17 MR. MacLEAN: Your Honor, he was asked</p> <p>18 multiple, multiple questions about statements</p> <p>19 by witnesses on precisely this issue and was</p> <p>20 asked if he agreed or disagreed, and I think I</p> <p>21 am entitled to redirect on this. It was an</p> <p>22 input in his valuation determination.</p> <p>23 JUDGE STRICKLER: What were you</p> <p>24 reading from?</p> <p>25 MR. MacLEAN: Your Honor, I am reading</p>

<p style="text-align: right;">261</p> <p>1 from the oral transcript of Mr. Egan from the</p> <p>2 earlier stage of this proceeding, and the</p> <p>3 question that was asked was, in fact, your</p> <p>4 question to Mr. Egan.</p> <p>5 JUDGE BARNETT: Overruled.</p> <p>6 BY MR. MacLEAN:</p> <p>7 Q. So, Mr. Sanders, would you agree or</p> <p>8 disagree, and I will read just the last part of</p> <p>9 the question and the answer again, "if you look</p> <p>10 at that at all for that to determine which one</p> <p>11 will do a better job of attracting those niche</p> <p>12 viewers?"</p> <p>13 Answer, the witness: "If you had</p> <p>14 ratings that would tell you that, you would</p> <p>15 look at that for sure."</p> <p>16 Would you agree or disagree with that</p> <p>17 -- with that testimony?</p> <p>18 MR. BOYDSTON: I am going to object.</p> <p>19 We have not been permitted to get into all of</p> <p>20 Mr. Egan's testimony, and I don't think that we</p> <p>21 should be -- that counsel should be able to</p> <p>22 cherry-pick one, and if he can, fine, but I</p> <p>23 think I should be able to then offer other</p> <p>24 parts of Mr. Egan's testimony from the same</p> <p>25 time period that show his full opinion on this.</p>	<p style="text-align: right;">263</p> <p>1 JUDGE BARNETT: Okay. Thank you.</p> <p>2 Then we're at recess until 9:30 in the morning.</p> <p>3 (Whereupon at 4:16 p.m., the hearing</p> <p>4 recessed to reconvene at 9:30 a.m. on Tuesday, April</p> <p>5 10, 2018.)</p>
<p style="text-align: right;">262</p> <p>1 JUDGE BARNETT: Mr. Boydston, you</p> <p>2 opened this door.</p> <p>3 MR. BOYDSTON: I did. And I don't --</p> <p>4 JUDGE BARNETT: And you asked about</p> <p>5 specific paragraphs, and so overruled.</p> <p>6 MR. BOYDSTON: Understood. Does that</p> <p>7 mean that I may --</p> <p>8 JUDGE BARNETT: Okay? Overruled.</p> <p>9 THE WITNESS: I would agree.</p> <p>10 MR. MacLEAN: Thank you. No further</p> <p>11 questions.</p> <p>12 JUDGE BARNETT: I think we are done</p> <p>13 for the day unless -- questions from the Bench?</p> <p>14 Okay.</p> <p>15 Thank you, Mr. Sanders. You may be</p> <p>16 excused.</p> <p>17 THE WITNESS: Thank you.</p> <p>18 (The witness stood down.)</p> <p>19 JUDGE BARNETT: We will then reconvene</p> <p>20 at 9:30 in the morning and we will hear from?</p> <p>21 MS. PLOVNICK: Mr. Lindstrom.</p> <p>22 JUDGE BARNETT: Mr. Lindstrom. Is he</p> <p>23 the only witness planned for tomorrow?</p> <p>24 MS. PLOVNICK: And Dr. Gray will</p> <p>25 follow Mr. Lindstrom.</p>	<p style="text-align: right;">264</p> <p>1 C O N T E N T S.</p> <p>2 OPENING STATEMENT BY: PAGE:</p> <p>3 Mr. MacLean 5</p> <p>4 Ms. Plovnick 27</p> <p>5 Mr. Boydston 37</p> <p>6</p> <p>7 WITNESS: DIRECT CROSS REDIRECT RECROSS</p> <p>8 ERKAN ERDEM</p> <p>9 By Mr. MacLean 48</p> <p>10 By Mr Boydston 71</p> <p>11 By Mr. MacLean 148</p> <p>12 By Mr. Boydston 155</p> <p>13 JOHN SANDERS</p> <p>14 By Mr. MacLean 159</p> <p>15 By Mr. Boydston (Voir Dire: 165)</p> <p>16 By Mr. MacLean 169</p> <p>17 By Mr. Boydston 189</p> <p>18 By Mr. MacLean 257</p> <p>19</p> <p>20 AFTERNOON SESSION: 116</p> <p>21</p> <p>22 CONFIDENTIAL SESSIONS: NONE</p> <p>23</p> <p>24</p> <p>25</p>

265

E X H I B I T S

EXHIBIT NUMBER:	MARKED/RECEIVED	REJECTED
7000	52	
7001	169	
7002	47	
7003	47	
7004	47	
7005	47	

9000-9033		147
9023		97
9027		96

266

C E R T I F I C A T E

I certify that the foregoing is a true and accurate transcript, to the best of my skill and ability, from my stenographic notes of this proceeding.

4/13/18	Karen Brynteson
Date	Signature of the Court Reporter

Distributions of the 2004-2009 and 1999-2009 Cable Royalty Funds

April 9, 2018

Docket Nos. 2012-6 CRB CD (2004-2009) (Phase II) and 2012-7 CRB SD (1999-2009) (Phase II)

<p>0</p> <p>0.1 [9] 57:19 59:5 105:18,19,22 106:5,9 112:24 157:7 008 [2] 68:15,17 03 [1] 236:25 05 [1] 158:1</p> <hr/> <p>1</p> <p>1 [8] 16:21 51:8 68:15 203:2 219: 18 220:20,25 257:14 1,000 [2] 8:23 118:5 1.5 [1] 103:4 1:00 [1] 115:15 1:07 [1] 116:2 10 [11] 76:23,23 116:20 119:14 134: 8 204:7,18 224:2,10 253:21 263:5 10:51 a.m. [1] 71:17 100 [14] 27:24 60:4 116:17,18 117: 18 118:19 155:21,23 156:2,4,16 157:8,8 163:24 100,000 [3] 149:7,7 174:11 101 [2] 1:17 172:18 104 [1] 77:9 10786 [1] 2:5 11 [4] 75:23 213:14 217:18 218:8 11-year [1] 213:13 11:11 [1] 71:18 110 [1] 224:3 116 [1] 264:20 12 [10] 40:19,21,21 129:23 132:14, 20,21 133:10 204:23 221:10 12:03 [1] 115:16 1200 [1] 3:7 1233 [1] 2:22 12th [1] 147:13 13 [5] 77:5 133:10 221:10 228:24 229:6 1310 [2] 204:17,22 14 [1] 238:4 147 [1] 265:10 148 [1] 264:11 15 [17] 40:17,24,25 41:3 71:16 79: 24 82:23 111:15 132:4,8 133:6 139:12 140:21,22 146:7 189:15 229:13 155 [1] 264:12 159 [1] 264:14 16 [5] 104:11 206:22 222:11,13 223:3 165 [1] 264:15 169 [2] 264:16 265:4 17 [3] 24:8 243:19 244:3 18 [2] 248:20 249:2 1818 [1] 2:15 189 [1] 264:17 19 [2] 248:21 249:3 190 [1] 133:17 194,000 [1] 79:19 1982 [1] 160:9 1986 [1] 160:13 1998 [2] 80:18 203:23</p>	<p>1998-'99 [2] 124:4 191:2 1998-1999 [3] 164:10 190:24 195: 18 1999 [48] 4:7,9,10,13 11:7,15 15: 12,16,25 17:1 18:16,17,24 19:4 36:21,25 37:2 50:13 56:3,12,20, 22,23 57:3 59:24 60:11 61:15,18, 24 62:1 63:7,8 66:8 76:20,21 79:9, 18 80:18 107:14 127:21 157:25 182:12 183:17 203:23 213:5 237: 15,24 259:3 1999-2003 [1] 236:20 1999-2009 [1] 50:14</p> <hr/> <p>2</p> <p>2 [15] 69:3,7,23 70:14,16 78:15 79: 4,4 103:3 219:19 220:21,24 221: 23 222:21 223:12 2-3 [1] 74:23 2:32 p.m. [1] 189:16 2:50 [1] 189:17 20 [5] 11:12 18:24 19:4 22:4 179: 14 2000 [11] 32:18,18 33:2 35:23 36:7 42:10 56:24 61:21 119:22 127:22 212:10 2000-2003 [4] 80:15 128:14 165:8 212:23 2001 [3] 36:9 56:25 127:22 2002 [1] 36:9 2003 [39] 11:8,15 15:12,16,25 17:1 18:24,25 19:4 36:10 42:10 56:3, 12,20,25 57:3 59:24 60:12 61:22 62:1,8 63:9 66:8,9 76:22 79:10,19 104:17 107:14 119:22 127:17,22 182:12 183:17 184:11 212:10 238: 17 258:21 259:3 20036 [3] 2:16,23 3:8 2004 [16] 4:6 11:10,13 33:1 35:3, 22,24,25 36:11 62:11 66:25 80:21 127:18 191:1 224:12 239:1 2004-2005 [2] 190:9,20 2004-2009 [1] 50:13 2004/2009 [1] 66:2 2005 [2] 36:1,12 2006 [2] 36:2,13 2007 [2] 36:2,14 2008 [5] 35:9 36:3,15 238:18 258: 10,13 2008-2009 [3] 236:20 237:4 239:1 2009 [22] 4:6,10 11:10,13 33:2,2 35:3,10,23,23 36:4,16 62:11 66: 25 127:19 224:12 237:15,19,24 238:18 258:10,13 2010 [1] 164:12 2010-2013 [2] 50:15,17 2013 [3] 34:13 36:25 164:13 2014 [1] 147:14 2015 [1] 73:7 2016 [7] 34:19 72:23 73:7 123:1,15, 17,21</p>	<p>2018 [2] 1:19 263:5 202-355-7917 [1] 2:17 202-408-7600 [1] 2:24 202-663-8183 [1] 3:9 20th [1] 2:22 21 [5] 79:25 84:19 205:23 250:4 253:19 254:11 210 [1] 181:10 213-624-1996 [1] 2:7 22 [4] 26:22 151:6 188:24 189:5 23 [5] 75:6,11 76:5,6 151:7 24 [3] 11:12,12 104:9 25 [1] 76:9 250,000 [1] 222:2 257 [1] 264:18 27 [5] 86:16 87:6 95:15 97:1 264:4 29 [1] 67:17</p> <hr/> <p>3</p> <p>3 [10] 68:9 71:1 75:6 219:20 220:21, 24 221:24 223:12 255:10,21 3,000 [2] 163:15 167:7 30 [5] 8:22 16:2 68:6,9 134:2,3 31 [3] 195:15 196:15 197:2 32 [1] 214:8 33 [1] 224:12 34 [1] 76:8 351.10(g) [2] 96:4 144:5 36 [1] 76:9 3613 [3] 81:24 82:3 193:10 37 [4] 16:3 96:3 144:4 264:5 3700 [1] 163:17</p> <hr/> <p>4</p> <p>4 [4] 57:15 133:7 174:12 189:25 4/3/18 [1] 266:9 4:16 [1] 263:3 400,000 [5] 12:2 174:6,10,12 222: 2 44 [1] 16:3 47 [4] 265:5,6,7,8 48 [1] 264:9 4th [4] 34:19,22 35:7,15</p> <hr/> <p>5</p> <p>5 [5] 24:9 41:2 57:16 133:1 264:3 50 [5] 125:9 153:18,21,22 154:10 500,000 [1] 157:23 52 [1] 265:3 54 [1] 224:12 555(b) [1] 24:9</p> <hr/> <p>6</p> <p>6 [7] 59:17 85:1 87:6 219:16,17,19 220:20 60 [18] 41:1 77:7,17 78:6,25 129:4, 7,8,20 130:20 132:17,24 133:2,3, 22 134:4 150:11,13 61 [1] 224:4</p> <hr/> <p>7</p> <p>7 [5] 59:17,22 221:7,14 223:1 7,000 [3] 157:14,17,22</p>	<p>7:30 [1] 149:4 700 [9] 78:13 79:4 116:16,25 117: 17 129:12 130:18,18 150:2 7000 [10] 51:7,19,20,24 52:3,6,6,8 67:19 265:3 7001 [11] 26:23 161:10 169:9,13, 18,21,24,25 170:24 171:2 265:4 7002 [4] 46:16 47:2,4 265:5 7003 [4] 46:16 47:2,4 265:6 7004 [4] 47:7,20,22 265:7 7005 [4] 47:11,20,22 265:8 703 [2] 2:22 22:2 71 [1] 264:10</p> <hr/> <p>8</p> <p>8 [5] 22:3 75:22 219:20 220:21 223: 12 80 [1] 163:24 803(c)(1) [1] 24:8 81 [1] 22:3 82 [1] 22:3 85 [2] 183:8,8 8826 [2] 195:21 197:16 8th [1] 2:15</p> <hr/> <p>9</p> <p>9 [7] 1:19 76:23 206:21 219:20 220: 21 223:12 224:5 9,000 [1] 145:22 9.84 [1] 68:18 9:30 [3] 262:20 263:2,4 9:33 [2] 1:21 4:2 90 [11] 75:15 86:17 111:22,25 112: 4,10 116:19 118:19,21 119:14 146:6 900 [1] 147:12 9000 [2] 146:25 147:8 9000-9033 [1] 265:10 9001 [2] 145:23 146:4 9002 [1] 146:5 90024 [1] 2:6 9003 [2] 75:3 146:5 9004 [2] 75:3 146:5 9005 [2] 97:24 146:5 9006 [1] 146:5 9007 [1] 146:5 9008 [1] 146:5 9009 [1] 146:5 9010 [1] 146:6 9011 [1] 146:6 9012 [1] 146:6 9013 [1] 146:6 9014 [1] 146:6 9015 [5] 138:25 139:11 140:14,18, 20 146:6 9016 [1] 146:7 9017 [1] 146:7 9018 [1] 146:8 9019 [1] 146:8 9020 [1] 146:8 9021 [3] 84:19 146:8 205:23 9022 [1] 146:8</p>
--	---	---	--

Heritage Reporting Corporation
(202) 628-4888

<p>9023 [9] 74:23,25 75:12 96:18 97:2, 3,4 146:8 265:11</p> <p>9024 [1] 146:8</p> <p>9025 [1] 146:8</p> <p>9026 [1] 146:9</p> <p>9027 [4] 96:11,13 146:9 265:12</p> <p>9028 [1] 146:9</p> <p>9029 [1] 146:9</p> <p>9031 [1] 146:9</p> <p>9032 [5] 146:9 147:12 217:1 219:1, 23</p> <p>9033 [3] 146:9,25 147:8</p> <p>91 [3] 57:11 58:7,11</p> <p>910 [1] 203:22</p> <p>92 [1] 86:17</p> <p>94.74 [1] 36:10</p> <p>95 [1] 69:23</p> <p>96 [1] 265:12</p> <p>97 [2] 57:18 265:11</p> <p>98-99 [2] 190:25 191:17</p> <p>99 [17] 40:19,20 69:24 104:17 127: 17 132:1,13 150:3 156:17,17,22, 25 157:17 236:25 237:19 238:17, 25</p> <p>99-2003 [1] 129:2</p> <p>99.28 [1] 36:3</p> <p>99.34 [1] 36:2</p> <p>99.44 [2] 36:3,4</p> <p>99.54 [1] 36:8</p> <p>99.57 [1] 36:17</p> <p>99.60 [2] 35:25 36:1</p> <p>99.65 [2] 36:11,14</p> <p>99.73 [1] 36:13</p> <p>99.75 [1] 36:9</p> <p>99.77 [1] 36:15</p> <p>99.78 [1] 36:16</p> <p>99.87 [1] 36:12</p> <p>A</p> <p>a.m. [4] 1:21 4:2 71:18 263:4</p> <p>ABC [1] 149:4</p> <p>ability [3] 6:25 25:2 266:5</p> <p>able [15] 7:15 15:21 17:21 25:3 26: 12 33:7,13,25 60:17 122:17 153: 22 199:1 241:22 261:21,23</p> <p>absence [1] 183:15</p> <p>absolute [5] 22:19 69:3 70:17 107: 15 152:22</p> <p>Absolutely [2] 6:10,15</p> <p>accept [1] 93:13</p> <p>acceptable [1] 59:7</p> <p>accepted [1] 228:2</p> <p>access [13] 53:22 56:22 60:3,17 61:21 62:23 66:1 76:21 83:24 107: 16 110:3 151:23 157:19</p> <p>accessible [9] 7:2,3,21 16:12 17: 4 25:5</p> <p>accordance [1] 144:4</p> <p>according [1] 111:1</p> <p>accords [2] 241:3,5</p> <p>account [3] 28:5 224:3 255:17</p>	<p>accounting [2] 162:22 163:4</p> <p>accredited [2] 161:11 162:1</p> <p>accurate [17] 51:20,25 100:24 108: 11 155:20,21 158:7,14 169:13,18 222:8 224:7,9 226:8 229:9 238:16 266:4</p> <p>accurately [1] 39:23</p> <p>accused [1] 25:14</p> <p>achieved [1] 58:24</p> <p>acknowledge [2] 120:2 239:21</p> <p>acknowledged [1] 215:2</p> <p>acquired [3] 52:19 59:24 62:19</p> <p>acquiring [3] 22:8 35:6 61:10</p> <p>acquisition [2] 162:21 163:22</p> <p>acronym [1] 162:6</p> <p>across [11] 21:9 70:6 115:2 117:7 129:25 132:5 138:6 193:24 206: 14,16 241:13</p> <p>action [1] 24:20</p> <p>actual [11] 9:8 12:23,24 13:1 22:9 74:25 106:1 141:5 254:14,16 259: 11</p> <p>actually [32] 16:8 20:21 23:11 37: 24 40:8,22 41:25 79:3 84:19 85:1 106:18,18 111:15 121:16 123:18 136:22 153:5,12 154:10,12 155:7 163:23 177:3 192:6 213:22 218: 24 230:1 234:15 238:19 242:14 246:4 254:24</p> <p>add [2] 149:2 196:5</p> <p>adding [2] 180:15,15</p> <p>addition [9] 31:7 32:5 38:25 39:9 42:1 61:9 101:21 105:4 248:19</p> <p>additional [22] 16:15 26:13 28:4 35:8,13 40:9 47:13 52:20 57:4 60: 15 62:17 63:2 76:23 104:22 122: 12 126:1,16 182:18,22 183:2 184: 9,10</p> <p>Additionally [4] 162:7,9 180:23 194:15</p> <p>additive [1] 223:21</p> <p>address [15] 6:2 39:22 40:3,10 56: 4 76:13 109:17 114:16 116:9 121: 5,8 148:10 151:7 170:21 234:13</p> <p>addressed [5] 35:5,17 76:20 141: 10 171:10</p> <p>addresses [2] 35:14 170:25</p> <p>addressing [5] 121:11 139:9,16 170:18 187:10</p> <p>adequately [1] 40:3</p> <p>adjacent [4] 20:12 26:17 166:17 186:15</p> <p>adjunct [1] 51:4</p> <p>adjustment [2] 180:16 250:9</p> <p>administration [1] 160:6</p> <p>admissible [3] 96:3 146:20 147:2</p> <p>admission [3] 46:24 47:7,16</p> <p>admit [9] 46:16 95:15 96:16 98:4 140:14 145:21,23 146:4 219:1</p> <p>admitted [19] 24:7 47:3,21 52:7 124:7,17,20 140:6 141:16 142:22</p>	<p>144:22 147:4 169:24 171:19 196: 21 219:2,5 220:14,14</p> <p>adopted [5] 8:14 25:4 26:25 37:16 39:2</p> <p>advance [1] 5:24</p> <p>adversaries [1] 141:7</p> <p>advertising [9] 197:18,19 229:1, 21,24 230:2,6,18 249:8</p> <p>advise [1] 235:10</p> <p>advised [1] 99:20</p> <p>advisement [1] 247:2</p> <p>advising [2] 187:17,22</p> <p>advisory [1] 48:22</p> <p>advocated [1] 39:3</p> <p>affect [3] 66:11 114:21 118:24</p> <p>affecting [1] 19:22</p> <p>affects [1] 109:25</p> <p>affirmative [1] 199:13</p> <p>afford [1] 7:16</p> <p>afternoon [9] 48:1 116:1 159:14, 15 165:4 189:14,23 212:14 264: 20</p> <p>agencies [1] 49:12</p> <p>aggregated [2] 78:11 79:2</p> <p>aggregates [1] 78:17</p> <p>ago [7] 22:17 29:25 49:2 159:24 178:10 199:25 233:5</p> <p>agree [31] 9:22 66:12 80:6 84:2 102:16 125:7 134:17 205:7 210: 13 211:6 213:4,25 214:15 216:9 217:16 220:19 223:13,24 224:24 225:4,12 227:19 236:9 243:6 257: 15 259:15,21 260:10 261:7,16 262:9</p> <p>agreed [7] 9:17 83:1 95:11,12 131: 4 252:16 260:20</p> <p>agreement [1] 27:22</p> <p>ahead [7] 77:23 113:14,15 146:1 172:10,13 174:14</p> <p>aiming [1] 18:5</p> <p>aired [3] 28:10 240:12,16</p> <p>Alan [2] 18:13 61:16</p> <p>ALESHA [2] 2:12 27:10</p> <p>Allen [1] 193:2</p> <p>allocate [5] 30:24 31:20 210:12 244:4,6</p> <p>allocated [1] 30:9</p> <p>allocating [2] 162:20 254:3</p> <p>allocation [14] 29:7,16,19 30:12, 20 44:20 50:15 91:24 92:15 135: 15 164:13 178:17 189:7 222:15</p> <p>allocations [4] 35:22 60:7,10 67: 24</p> <p>allowed [2] 184:11,12</p> <p>allowing [1] 142:19</p> <p>allows [1] 15:7</p> <p>almost [3] 45:21 186:19 250:3</p> <p>alone [2] 26:12 42:18 133:16</p> <p>Alpena [1] 181:12</p> <p>already [15] 32:6 36:23 83:24 85:5 86:5 87:23 114:24 137:16 138:1</p>	<p>146:7 177:3 180:6 182:13 208:13 252:14</p> <p>alteration [1] 78:5</p> <p>alterations [1] 77:5</p> <p>alternative [2] 38:14,20</p> <p>alternatives [1] 39:14</p> <p>although [2] 83:21 186:21</p> <p>America [1] 27:15</p> <p>American [2] 161:11,19</p> <p>among [1] 210:12</p> <p>amongst [1] 116:17</p> <p>amount [12] 7:13 133:9 194:17,24 214:4,16 215:22,23 216:10 225: 24 236:6 256:8</p> <p>analogous [1] 10:13</p> <p>analogy [1] 25:15</p> <p>analyses [19] 16:15,15 17:9 19:6 23:24 39:8 50:24 57:4 59:10 63:2 67:21 71:2 138:7 161:4 182:14 183:11,20 184:5 188:12</p> <p>analysis [77] 14:7 16:17,24 17:2,7 21:16 22:13 25:23 26:11,12 32:22 33:7,17,21 35:8,14 45:7 46:2 49: 15,16 50:7,21 51:12 60:23 61:18 62:3 63:8,12,18 64:14,19 65:21 66:2,3,20 67:13 74:15,17 77:6,7,8 90:1 91:13 108:9 112:17 113:9 116:23 119:8 121:17 125:2 126: 17 127:2 128:12 132:3 133:24 134:7 138:11,12 149:12 152:21 153:4 155:23 156:20,21 176:22 184:13 185:16 195:5 202:3 223: 25 227:13 231:22 232:23 234:4, 21 236:25 240:18</p> <p>analytical [1] 25:19</p> <p>analytics [1] 49:17</p> <p>analyze [2] 117:3 151:21</p> <p>analyzed [1] 39:18</p> <p>analyzes [1] 233:9</p> <p>and/or [1] 72:17</p> <p>Angeles [1] 2:6</p> <p>annual [13] 78:14 79:8 121:2,12 130:12,15,15 131:1 148:12 155: 19 158:9,16 221:25</p> <p>annualization [2] 79:7 149:20</p> <p>annualize [1] 130:9</p> <p>annualized [1] 148:13</p> <p>another [25] 8:16 16:10 17:12 21: 12 38:24 63:5 89:22 92:25 94:6 110:9 119:14 128:20 129:13 150: 4 162:6 167:1 172:20 174:1 185: 22 188:14 191:19 200:7,7 201:14 209:5</p> <p>answer [29] 5:11 22:21 30:6 33:25 35:19 54:11 73:12 77:13 95:11,12 98:17 127:8 135:7 144:20 165:20 166:11 176:24 177:10 192:9 198: 1 201:23 211:11 217:9,21 218:16 259:20 260:7 261:9,13</p> <p>answered [5] 21:15 26:11 98:10 177:4 199:13</p>
--	---	---	---

Distributions of the 2004-2009 and 1999-2009 Cable Royalty Funds

April 9, 2018

Docket Nos. 2012-6 CRB CD (2004-2009) (Phase II) and 2012-7 CRB SD (1999-2009) (Phase II)

<p>answering [2] 52:21 139:22 answers [4] 5:15 89:2 118:13 258:24 antiques [1] 161:20 anybody [2] 141:22 198:18 anyway [2] 41:18 103:1 126:18 171:17 173:3 196:22 apart [1] 243:4 apologize [2] 73:25 99:15 138:23 139:4 146:24 196:7 apparently [1] 239:6 appeal [2] 9:14 21:9 45:25 241:17 243:8 246:23 appealing [1] 179:25 appeals [1] 246:15 appear [2] 58:25 106:4 114:10 130:21 241:6,15 APPEARANCES [1] 3:1 appeared [2] 149:9 167:25 234:2 appearing [2] 127:24 194:3 197:16 appears [2] 83:3 130:23 210:10 215:21 238:7 apples-to-apples [1] 130:13 applicable [2] 172:21 173:11 application [2] 173:10 227:16 applied [2] 30:1 208:6 applies [1] 143:3 apply [2] 9:18 11:3 165:20 appraisal [10] 10:14,14 20:6 161:17 162:5 172:7,15 173:13 174:20 194:20 appraisals [2] 162:12 242:5 appraiser [2] 8:22 161:11 162:1 176:22 189:4 245:9,25 247:24 249:24 Appraisers [2] 161:12,19,20,20,21 appreciate [2] 6:4 143:22 205:21 approach [25] 7:1 41:6,7 73:21 88:14 94:15 172:16,17,17,22 173:4,10 174:21 184:25 191:19 194:19 195:11 196:1 204:2 208:17 233:13 237:1 253:23,25 254:23 approaches [2] 172:16,21 appropriate [11] 30:5 44:19,21 55:22 65:2 92:16 93:12 170:7 178:19 208:17 236:6 appropriateness [1] 178:11 approximately [4] 27:24 163:12 204:23 222:2 April [2] 1:19 263:4 arbitrary [4] 41:12,14 43:3,4 area [2] 63:5 150:17 161:22 166:8,12,14 234:9,11 areas [2] 55:19 161:1 169:4 aren't [1] 84:3 argue [4] 69:16 171:20 208:9 240:9 argued [2] 22:6 92:14 argument [2] 22:7,9 41:21 42:6</p>	<p>82:19 171:14 argumentation [1] 46:3 arguments [2] 9:14,15 83:15 arise [1] 6:7 ARNOLD [1] 2:20 around [2] 9:6 12:14 22:12 48:23 179:7,9 186:7 216:6 248:6 articulated [2] 170:22 210:1 ASA [2] 161:20,25 ascertain [1] 241:22 ascribe [1] 208:10 aspect [1] 25:1 aspects [1] 39:2 assert [1] 229:8 assess [1] 187:5 assessing [1] 187:21 assessment [2] 201:5 254:1 asset [2] 163:12 176:6 assets [14] 8:25 160:12 162:13 163:7,9,21 164:22 168:23 176:4 244:16 245:10,25 247:25 249:25 assign [4] 156:21 163:15 222:14 233:8 assigned [1] 134:14 assigning [2] 156:3 186:22 assigns [1] 111:15 assist [1] 30:8 assisting [1] 187:23 Association [2] 27:14 161:25 162:8 assume [2] 133:21 222:7 assuming [2] 14:21 153:14 assumption [2] 45:22 67:15 179:12 assured [1] 33:24 attach [1] 173:5 attached [2] 46:23 47:14 51:6 161:9 164:16 attack [1] 141:6 attempt [2] 76:13 142:6 177:11 attempting [1] 202:17 attention [2] 81:21 82:4,7 179:17 193:9 195:20 236:6 243:19 attic [1] 15:22 attract [2] 83:17 84:11 88:16 136:18 167:14,16 178:4 240:9 247:9 attracting [2] 94:4 136:2 150:25 151:16 260:5 261:11 attraction [2] 80:4 82:25 178:2 attractive [1] 167:19 attributable [2] 250:10 257:8 audience [2] 34:9 226:16 244:8 245:4,21 246:20 247:9 audiences [1] 250:9 audit [1] 48:22 audited [2] 162:23 185:11 auditing [1] 163:3 auditors [1] 185:12 August [2] 122:25 123:17 Australia [1] 43:18 automatically [1] 122:3</p>	<p>availability [1] 236:8 available [34] 13:5 19:1 22:24 23:4,16,18 24:19 59:8 61:23 62:6,13 117:7 119:1 148:25 149:10,18 152:6 173:8 182:24 184:9 185:4 187:7,20 194:21 203:7 236:16,18 240:8 244:4,6,11 245:21 259:1,9 Avenue [2] 1:17 2:5 average [39] 14:8 78:1 79:5 105:17,20,21 107:16 108:6,7 109:22 110:4 115:1 117:23,25 118:6,9 119:19 121:3,21 122:5 129:22 130:5,9,17,25 131:1 132:19,19,25 133:7,9,12 155:20 157:6,13,15 158:9,17 179:7 averages [2] 114:4 121:12 averaging [2] 118:2 121:18 avidly [1] 4:20 avoid [1] 7:10 aware [11] 99:4 125:8,13 128:12 193:25 232:8,18 233:6 255:15,20 256:21 away [1] 155:5</p> <p style="text-align: center;">B</p> <p>Bachelor's [2] 49:7 160:2 back [23] 5:23 6:3,13 17:3 24:5 34:21 79:22 83:14 90:17 92:24 108:13 111:13 132:12 196:5,6,9 198:3 202:8 209:18 212:5 214:8 216:6 239:8 back-tracked [1] 215:15 background [2] 48:25 159:25 223:7 backtracking [1] 215:4 bad [1] 208:8 Baltimore [1] 186:18 bank [1] 7:10 BARNETT [150] 1:11 4:3,15 5:5 6:4 23:17 24:3 27:2 37:5 38:11 39:13,16,21 40:14 46:11 47:2,20 48:1,9 51:15 52:6 53:5 57:23 71:14,19 73:23 81:1,9 86:7 87:11,16 93:2 95:13,16 96:8,11,24 97:3 98:6 99:17 115:11,14 116:3 123:23 124:13,19 140:18,22 141:22 142:11,17 143:13,15 144:14 145:7,13,19,24 146:2,16,23 147:16,20,23 148:2 152:18 154:5 155:11,15 158:23 159:4,10 165:1 168:17 169:2,24 171:18,24 172:10 176:19 177:6,9,13,16,24 187:13 188:4 189:12,18 191:20 195:12 196:3 197:11 198:24 199:7 200:8,19 201:9,16 202:1 204:4 205:10 207:14 208:23 209:9 214:22 215:8,17 216:2,22 217:5,9,13,25 218:9,15,19 219:14,25 220:2,15 244:20 245:12 246:2 247:1,15,18 248:10,24 249:14,18 250:2,15,20 252:19 253:9,13 254:7 255:6,11 257:19,</p>	<p>22 261:5 262:1,4,8,12,19,22 263:1 base [4] 84:4 184:25 242:5 246:22 based [45] 7:2 8:7,7,15 9:4 12:10 22:12 24:12,18 29:17 43:3,4 54:9 62:9 65:9 67:12,13,14,20,21 92:20 93:19 103:13 112:16 131:10 135:2 136:15 173:22 174:5 181:16 185:4,15 210:1 217:10 219:5 223:25 232:1,9 237:8 240:7 244:18 254:13,16 255:21 256:9 baseline [2] 7:24 60:1 256:11 basic [2] 239:11 257:10 basically [11] 69:23 70:6 92:5 126:22 132:7 161:2 170:14 180:11 186:19 214:16 256:12 basing [1] 232:20 basis [23] 18:18 26:18 29:19 54:3 59:9 95:16 102:3 115:6 119:6 146:18 148:13 162:25 186:10 194:23 199:20 203:3 221:25 228:25 230:19 251:3,5 257:15 259:24 Bear [2] 20:10 180:6 bearing [1] 159:22 became [1] 259:8 become [2] 114:15 180:2 becomes [1] 78:4 becoming [1] 230:17 bedrock [4] 104:2 195:5 201:12 231:22 began [1] 160:8 begets [2] 175:18 231:24 begin [2] 112:1 202:11 beginning [2] 88:1 131:4 216:7 217:15 244:1,23 251:7 253:22 begins [13] 76:7 82:10 193:16 244:3,24 245:17 246:5 247:5,7 249:3,4 253:22 254:10 behalf [4] 2:2,9,19 3:2 behind [2] 31:25 46:4 believe [60] 7:12 8:1 10:13 11:19 13:5 25:18 26:23 30:7,19 40:1 54:13,16 56:16 57:15 61:15 66:19,22 67:3 86:20 87:13 99:8 101:11 102:4 109:3,10,16 114:11 131:22 132:4,13 133:21 138:13 145:22 164:8 165:6 168:11 175:23 184:11 190:12 197:3 198:5 199:14 200:1,21 212:24 213:10 218:22 222:8,10 223:1,4 224:14 229:14 237:8 238:3 241:9 243:24 246:6,9 255:12 believes [1] 25:9 bell [2] 80:21 82:18 below [2] 59:7 106:6 112:24 121:23 157:6 222:21 bench [2] 155:12 262:13 Bend [1] 181:11 beneath [1] 82:15 benefit [4] 177:6,9 226:11 241:11 Bennie [1] 223:15 Berlin [2] 9:7 21:20 22:4 26:7 46:17 168:24 210:2,15</p>
---	--	--	--

<p>Berlin's [3] 20:4 21:24 210:7 best [22] 5:11 6:2,7,9 11:19 15:1 22:15,19,23 24:19,22 41:18 54:11 169:16,19 205:16 211:13 233:5 239:10 240:21 244:11 266:4 better [6] 25:10 41:22 94:23 95:6 260:5 261:11 between [56] 8:18 14:2,12 19:8,16 24:7,14 29:11 31:20 35:1 44:25 45:19 49:3 52:18 61:7,19,25 62:4 63:16,20 64:21 66:17 67:25 72:16 74:8 75:3 88:8 89:6 93:14,17 95:5 100:20 102:4,15,25 104:3 116:11 128:15 131:7 148:19 184:14 185: 8 189:13 204:22 212:11 213:17, 20 215:11,22 218:5 220:10 221: 23 222:2 224:11 225:20 244:6 beyond [15] 171:4,15,21 175:23 176:1 243:23,24 245:5 246:25 247:13 248:15 251:17,22 254:4 257:2 big [5] 60:5 125:11 163:4 185:13 235:8 biggest [1] 161:5 binder [20] 4:18 51:19 73:21,22,25 74:2,21 75:7 138:24 169:10,10,11, 12 195:15,24 196:18 203:22 204: 1 218:22,25 binders [1] 4:17 bit [2] 152:7 196:5 Board [5] 8:9,11 117:8 164:7 241: 13 body [1] 161:16 Bond [3] 159:20 160:12,18 bones [1] 152:8 book [2] 85:25 86:15 books [4] 180:22 183:2 225:23 232:16 Bortz [8] 82:11 92:1,11 135:14 136:6,7 193:17 199:16 both [21] 19:22 23:6 29:7 64:11 65: 12 67:21 82:11 101:2 108:2,20 121:1 126:2,13,14 138:8 190:2 193:17 210:21,23 225:10 260:3 bottom [5] 35:16 74:24 76:7 204: 23 206:21 bought [1] 238:22 boundaries [1] 186:20 boy [1] 41:15 BOYDSTON [192] 2:3,4 37:7,10, 11 38:21 39:15,20,25 40:15 44:12 46:12,19,25 47:18 51:13 52:4 71: 20,21,23,25 73:20,24 75:11,16 80: 23 81:2,8,10,13 85:12 86:11 87: 21 91:4 93:3,7 95:10,14,17 96:10, 15 97:2,6,25 98:3,8 99:8,14,19 114:1 115:13 116:4,5,6 118:11 122:8 123:24,25 124:1,3,15,22,24 131:3 136:19 138:21 139:15 140: 4,19,21,24 141:25 142:5 143:20 144:18 145:1,10,14,20,25 146:3, 13 147:10,22 155:13,16,18 158:22 164:24 165:3,5 168:10 169:22 170:23 171:13,23,25 175:22 176: 12 177:5,23 187:8,24 189:19,20, 22,24 191:18,21,22 195:13,25 196: 4,14 197:5,14 198:13,19,25 199:8 200:9,20 201:11,19 202:5,7 204:2, 6,7,9 205:11,20 207:19 209:17 210:5 214:25 215:10,21 216:4,8, 20 217:14 218:3,14,20,24 219:10, 15,16 220:1,13,17,18 238:1,3,14 243:17 244:22 245:14,15 246:3 247:4,17 248:11,12 249:1,17 250: 3,19,21 251:6,10,15 252:19,25 253:11,15 254:9 255:9,12,14 257: 18 260:12 261:18 262:1,3,6 264:5, 10,12,15,17 Boydston's [2] 38:12 142:17 branched [1] 160:25 break [3] 71:16 74:3 115:12 breaking [2] 7:10 25:15 breaks [1] 232:16 BRIAN [5] 2:3 37:11 71:25 165:5 189:24 brief [1] 46:4 briefly [9] 48:14 52:11 73:16 148: 18 159:17,24 161:13 170:24 180: 4 bring [6] 21:18 34:15 43:10 45:20 137:4 152:10 broadcast [22] 28:10 110:8 111:5, 23 114:9 116:17 117:13,19 119: 10 120:24,24 129:17 149:5 150: 10 158:3,8,11,16,19,20 239:24 245:19 broadcast-by-broadcast [2] 119: 6,8 broadcasted [1] 59:4 broadcaster [3] 168:3 229:16 230: 9 broadcasters [2] 229:21 254:25 broadcasting [2] 249:5 254:17 broadcasts [30] 79:13,18 105:12 112:1 114:3,17,18 115:2 116:18 117:7,18 118:8,19 126:23 127:1 129:9 133:16 148:15,20 149:3,6, 14,17 150:13 155:21,23 156:16,18 157:8 239:23 broader [1] 27:21 broke [1] 116:7 brought [2] 34:21 44:13 Brynteson [2] 1:24 266:9 buckets [2] 170:9,10 BUDRON [2] 2:13 27:11 build [2] 90:24,25 Building [3] 1:16 90:1 175:7 built [3] 50:9 65:9 236:25 bunch [1] 118:6 bundle [1] 94:8 bundles [2] 90:23,25 burden [1] 140:12</p>	<p>business [11] 24:18,22 160:6 161: 23 162:12 172:18 179:11 184:23 187:3 230:22 236:3 businesses [2] 161:7 163:21 buy [1] 29:23 buyer [2] 29:22 31:8 buyers [1] 164:2 Byzantine [1] 173:1</p> <p style="text-align: center;">C</p> <p>C.F.R [1] 144:5 CA [1] 2:6 CABLE [112] 1:6,9 4:5,6 20:13,14, 18 28:12 29:7,11,14 30:1 31:1 32: 9,14,19,25 33:2 35:10,23 36:1,1,2, 2,3,4 37:20 50:13,13 59:20 80:19 88:3,5,10 89:9 90:3,25 91:6 93:10, 21 94:7 99:22 100:2,10,13 101:2, 22 102:6,9,11 106:24 107:5 108:2, 5,8,10,16,19 111:17 112:7 124:4 136:24 153:19 160:23 163:23,24 164:3 165:8,15,17,19 166:24 167: 12,14,15 168:4,8,12 174:16,25 175:13 176:7,16 177:21 188:2 189:7 190:24 191:17 202:23 203: 2 210:16 211:2,3,4,6,8,11,20 213: 5,22 214:4 221:10,22 222:15 223: 5 230:13 235:10,15 245:19 246: 13 247:10 248:15 cable-only [2] 167:21 224:21 calculate [9] 118:15,20 127:3 153: 5 154:4 155:3 156:22 180:12 226: 4 calculated [3] 156:19 225:24 255: 16 calculating [3] 12:15 226:2 232:9 calculation [13] 54:3 103:20 113: 17 125:20,23 126:20,22 149:22 186:22 195:7 232:21 255:25 256: 2 calculations [5] 33:17 101:6 126: 2 223:4 233:25 calculus [3] 256:6,19,22 calendar [1] 58:19 call [16] 8:8 44:20,21 47:25 76:16 88:9 148:4,6 149:8 162:4 170:10 180:12 184:20 188:8 210:22 252: 4 called [10] 55:2 65:19,20 160:10 161:19 173:24 174:1 188:10 242: 21 255:21 calls [5] 56:9 159:2 182:19,21 238: 10 258:18 came [10] 15:17 23:20 42:15 54:10 60:16 61:15 176:20 191:1 203:14 222:4 Canada [1] 43:17 cancel [2] 103:19,25 cannot [3] 95:6 135:24 141:14 capital [1] 249:11 caption [1] 4:8</p>	<p>capture [1] 228:9 captured [1] 246:16 capturing [1] 226:14 care [4] 33:15 83:25 84:9,14 career [5] 160:8 167:3,6 179:3 184: 20 carets [1] 225:22 Carlisle [1] 160:4 CARP [2] 80:11 99:21 carriage [3] 32:13,16 243:4 carriers [2] 28:13 31:1 carry [3] 166:14 256:7 257:9 case [30] 6:14 8:20 9:15,24 18:9, 11 24:11 25:16,20 26:3 45:1 83: 18 85:15 99:13 103:18 117:5 164: 11 166:9 170:16 171:17 172:22 184:8 188:15 192:23 194:16 227: 11 234:1 236:17 238:20 259:9 cases [10] 20:17,17,20 24:10 120: 21 166:14,19 168:4 186:21 193:1 categories [18] 14:11,13 31:20 45: 10,14 90:6 93:17 135:3,17 138:6 178:23,25 179:6 180:2 208:10 221:4 225:15 233:14 categorizing [1] 93:23 category [60] 4:14 7:4,5,20 8:19 13:16 14:3,4,9,10,14,16,18,19,22, 24 15:4,9 29:5,9,10 31:17,17 35: 24 36:6,19,24 37:2 52:18 53:11 54:4,22,25 55:17 63:20 67:25 88: 23 89:19,25 90:9,10,11 134:23,23 135:19 137:18 138:6,13 179:17 208:12 221:22 224:2 225:1,2,5,7, 8,16 246:14,19 category-by-category [1] 91:10 CDC [9] 53:20 83:23 107:19 108: 15,18,23 109:2 180:18 244:11 cell [1] 154:3 centered [1] 248:6 Centers [1] 50:6 central [1] 74:17 certain [5] 58:24 105:8 190:8 228: 12 259:15 certainly [15] 25:8 73:23 78:22 81: 3,11 158:13 167:2,25 184:19 209: 25 213:12 225:11 230:12 240:24 243:3 certainty [3] 6:23 24:6 240:14 CERTIFICATE [1] 266:1 certification [1] 161:22 certifies [1] 161:16 certify [1] 266:3 cetera [4] 43:5,5,5 193:18 CFR [1] 96:3 challenge [2] 209:11,13 chance [1] 57:11 change [14] 17:10,14 57:19 58:3 61:12 64:3 66:23 79:19 94:9 123: 4 131:22 207:20 223:17 256:23 changed [1] 63:21 changes [11] 17:18 19:19,21 20:1</p>
---	---	--

<p>57:17 64:10 66:11,15 88:21 209:24,24</p> <p>channel [7] 20:15 208:7 242:17,20,25 243:3,13</p> <p>channels [2] 167:22 224:21</p> <p>characteristics [2] 186:8,25</p> <p>characterization [2] 100:25 251:14</p> <p>characterize [1] 124:16</p> <p>characterized [2] 167:23 236:4</p> <p>charge [2] 168:7 170:15</p> <p>chart [4] 68:22 70:2,3 214:18</p> <p>charts [1] 222:14</p> <p>check [3] 230:9,9 255:13</p> <p>cherry-pick [1] 261:22</p> <p>children's [1] 28:22</p> <p>choice [2] 253:4,6</p> <p>choices [1] 179:24</p> <p>choose [3] 166:25 253:14,16</p> <p>chooses [1] 253:1</p> <p>choosing [1] 45:9</p> <p>chose [2] 111:23 181:6</p> <p>chosen [1] 101:18</p> <p>Christian [1] 246:20</p> <p>Christmas [1] 114:9</p> <p>churn [1] 224:22</p> <p>Circle [1] 179:8</p> <p>Circuit [2] 9:13,17</p> <p>circumstance [1] 78:7</p> <p>circumstances [1] 111:23</p> <p>cited [1] 192:12</p> <p>claim [3] 77:25 111:12,17</p> <p>Claimant [4] 129:17,18 173:6 180:16</p> <p>Claimants [25] 2:19 3:2 5:7 7:20 15:19,21 27:6,12 28:2,4,6,8,15,16,17,18 52:15 56:15,17 104:24 170:12 210:12 221:23 222:1 225:10</p> <p>Claimants' [1] 28:19</p> <p>claimed [13] 35:25 36:8,18 63:20 71:2 109:21 113:5 114:7 129:14,25 149:21 221:22 246:18</p> <p>claims [3] 28:3 50:8 77:8</p> <p>clarification [3] 124:10 140:25 141:20</p> <p>clarify [4] 64:18 127:16 215:6 253:10</p> <p>clarity [1] 218:13</p> <p>class [1] 246:15</p> <p>clear [10] 53:1 68:7 70:4 77:15 112:23 130:3 147:14 152:21 199:18 254:18</p> <p>clearly [3] 37:21 42:10 100:20</p> <p>CLERK [1] 219:23</p> <p>client [5] 39:22 187:17,22,23 188:1</p> <p>clients [5] 48:21 49:10,12 160:22 161:5</p> <p>close [4] 17:25 25:9,12 177:15</p> <p>club [9] 78:14 79:4 116:16,25 117:17 129:12 130:18,18 150:2</p>	<p>coefficient [5] 65:22 68:14 69:5 103:18,25</p> <p>coefficients [3] 70:8 71:4,10</p> <p>colleagues [4] 27:9 154:5 247:3 250:18</p> <p>collect [1] 240:25</p> <p>collected [8] 213:5 215:2,3 216:1,11 217:17 218:6 228:17</p> <p>collection [2] 149:25 226:21</p> <p>collectively [2] 27:18 40:5</p> <p>collectives [2] 43:13 44:10</p> <p>collects [2] 55:12 228:16</p> <p>College [1] 160:3</p> <p>column [3] 82:8 193:14,21</p> <p>columns [3] 70:13 218:12,13</p> <p>combination [2] 129:16,18</p> <p>combinations [3] 151:22 153:2,14</p> <p>combine [2] 83:13 174:22</p> <p>combined [1] 224:21</p> <p>combining [1] 53:13</p> <p>come [16] 6:3 23:3 24:5 41:8 67:3 74:1 110:4 120:16 137:23 167:3 173:19 181:3 193:24 206:14,16 235:20</p> <p>comedies [1] 28:23</p> <p>comes [12] 11:78:22 94:8 163:16 188:17</p> <p>comfort [1] 66:3</p> <p>comfortable [2] 185:9,16</p> <p>coming [9] 26:9 32:4 94:2 97:21 110:25 112:4,16 211:18,19</p> <p>command [1] 43:1</p> <p>comment [5] 46:1 52:24 82:21 85:21 237:2</p> <p>commercial [1] 49:12</p> <p>common [7] 21:17,19 26:5,8 67:22 175:17 188:16</p> <p>commonsense [5] 175:17 227:16 241:14,19 243:7</p> <p>commonsensically [1] 178:1</p> <p>communications [1] 160:22</p> <p>communities [1] 166:17</p> <p>compact [1] 4:19</p> <p>companies [12] 27:16,17,18,23 160:23,24 163:1 167:14,16 230:14,17 255:1</p> <p>company [13] 32:17 34:13 160:9,13 163:7,17,23 168:4 174:3 211:9,11,14 235:11</p> <p>comparable [3] 20:7 21:22 184:24</p> <p>comparables [3] 10:19,24 11:1</p> <p>compare [1] 15:3</p> <p>compared [4] 57:1 60:1 61:12 225:15</p> <p>comparing [2] 8:18 9:10</p> <p>comparison [3] 69:23 130:14 148:14</p> <p>compelled [1] 29:23</p> <p>compensable [2] 29:13 126:4,6,14,19 254:22</p>	<p>competing [2] 210:23,25</p> <p>compiled [4] 108:16 244:10 259:6,8</p> <p>complete [6] 60:4 154:12 187:6 196:11,19 239:12</p> <p>complex [2] 135:16 256:5</p> <p>complexion [1] 233:15</p> <p>complicated [5] 138:16 158:2 230:12,22 256:18</p> <p>component [10] 170:17 173:14,14,22 178:1 195:6 230:21 232:7,14 245:13</p> <p>components [3] 170:6 171:9 173:18</p> <p>comport [2] 65:15 185:23</p> <p>comports [1] 254:24</p> <p>comprehensive [4] 15:13 113:8 184:13 239:11</p> <p>comprise [1] 163:20</p> <p>comprised [1] 170:11</p> <p>compulsory [3] 197:25 198:1 252:21</p> <p>computation [2] 152:5 154:12</p> <p>compute [3] 153:13,22 154:10</p> <p>computer [1] 154:22</p> <p>computers [1] 154:11</p> <p>concentrated [2] 13:18 181:19</p> <p>concept [1] 186:3</p> <p>concern [17] 11:5 15:10 18:1,16 55:18 56:1,5 60:25 61:2 83:12 136:2 138:13,14 182:7,16 183:25 184:6</p> <p>concerned [2] 114:5 137:15</p> <p>concerns [11] 6:1 11:16 35:5,15 52:22 67:1 116:9 170:18,21 183:14 235:17</p> <p>conclude [4] 18:18 101:8 102:3 116:23</p> <p>concluding [1] 248:3</p> <p>conclusion [7] 24:4 41:9 54:10 67:4 137:23 194:5,7</p> <p>conclusions [5] 74:18 97:18 152:15 243:21 254:11</p> <p>conduct [1] 153:4</p> <p>conducted [6] 16:17 17:6 19:13,14 23:15 244:9</p> <p>conducting [2] 22:11 185:22</p> <p>conference [3] 182:19 238:9 258:17</p> <p>confidence [4] 6:22 24:6 69:24,24</p> <p>confident [7] 16:8 35:16 60:5 64:8 67:15 102:24 188:20</p> <p>CONFIDENTIAL [1] 264:22</p> <p>confirm [6] 61:7 65:1 183:20 188:13 216:10 235:14</p> <p>confirmatory [1] 237:1</p> <p>confirming [4] 184:13,16 185:7 227:10</p> <p>confused [1] 129:6</p> <p>Congress [3] 1:2,15 9:16</p>	<p>connection [4] 32:23 190:16 192:23 194:18</p> <p>consent [2] 23:9,13</p> <p>consented [1] 47:16</p> <p>consequence [5] 163:2 175:20 178:5 181:20 183:4</p> <p>consequently [1] 250:5</p> <p>consider [11] 22:10 37:22 42:16 52:21 108:12 117:21 118:16 123:15 187:5 224:23 231:13</p> <p>considerable [2] 34:6 194:17</p> <p>considerably [1] 13:12</p> <p>consideration [3] 31:5 83:9 97:16,20 98:22 127:5 208:20 209:22</p> <p>considerations [2] 9:17 178:15</p> <p>considered [5] 89:21 172:15 198:7 206:19 247:24</p> <p>considering [6] 45:13,15 82:10 89:19 117:4 193:16</p> <p>consistency [4] 6:22 24:6 25:1 57:13</p> <p>consistent [11] 20:3,5 57:21 59:13 185:23 199:23 205:5,9 222:25 223:3 235:1</p> <p>consistently [2] 221:9,23</p> <p>consisting [1] 15:23</p> <p>consists [1] 27:15</p> <p>constitute [1] 146:11</p> <p>construct [1] 110:10</p> <p>constructed [1] 63:8</p> <p>consult [5] 54:6 247:3 249:19 250:17,20</p> <p>consultation [6] 54:10 67:14 166:2,10,20 172:3</p> <p>consulted [3] 54:7 100:1 252:2</p> <p>consulting [1] 159:20</p> <p>consumer's [1] 90:4</p> <p>consumers [1] 94:15</p> <p>contained [1] 203:5</p> <p>Conte [1] 2:5</p> <p>content [12] 27:20 30:23 31:9,22 55:18 83:24 88:18,18 89:24 90:7 94:10 230:24</p> <p>contents [1] 217:7</p> <p>context [17] 8:24 9:19 31:3 85:19 88:7 137:7 142:16 153:1 165:7 178:11,14,17 194:14 197:13 206:15 238:5 260:16</p> <p>continue [3] 7:16 35:2 77:14</p> <p>Continued [1] 3:1</p> <p>continues [2] 76:4 219:19</p> <p>Continuing [1] 255:2</p> <p>contracted [1] 41:1</p> <p>contrary [4] 85:22 86:25 88:2 201:15</p> <p>control [1] 64:15</p> <p>controlling [1] 64:2</p> <p>controversy [1] 37:1</p> <p>coordination [1] 170:6</p> <p>Copeland [1] 223:15</p> <p>copies [1] 81:2</p>
---	--	---	---

<p>copy [5] 51:20 80:24 169:14 191:19 197:2</p> <p>COPYRIGHT [12] 1:1 6:20 7:7,9,19 8:9,10 50:11 164:7 170:11 244:10 255:18</p> <p>Coral [4] 15:21 23:10 47:12 56:17</p> <p>Corner [5] 48:19 81:25 82:1,3 195:22</p> <p>corners [1] 184:8</p> <p>Corporation [6] 32:9,14,25 53:21 174:17 223:5</p> <p>corporations [1] 161:6</p> <p>Correct [199] 58:22 59:1 60:10,13 70:8,9,23,24 71:6,11 73:1,9 74:10,13,18,19 77:18,19 78:23,24 79:1,10,11 84:5 90:16 91:24 92:3,7 94:22 97:24 100:22,23 101:2,12,13,18,19,24 102:13 104:5,8,12,13,17,23 105:3,9,10,14,18,22 106:2,5,10,11,19,20,25 107:7 108:3,17 109:4,5,18 111:7 112:2 113:24 115:4,7 117:1,2,8,9 118:4 119:15,16,23 120:7,9 121:9,20,24 122:2,12,13,15,16,20,21 123:2,4 125:4,5,19,25 126:21 127:6,10,11,14,15,19,20 128:16 129:22 131:9 132:2,3,5,10,11,16,17,18,22,23 133:1,18 134:15,16 136:7 137:10 151:17 152:24 153:16 155:24,25 156:5,6,25 157:1 162:15 163:11 165:16,22 166:12 168:8,9 182:4 195:2,3,5 196:18 202:12,22 205:4 206:7 208:15 210:7,17 211:4 212:23 217:12,19 219:25 220:23 221:5,6,11 222:9,16,22,23 223:18,23 226:19,22 227:6,14 228:1,7,20 229:2,13,17,18,23 230:2,7,10 231:2,14,16,23 235:19 236:13,21 237:5 238:18 239:7,15 240:1,23 241:4 252:10 256:4,13 259:12</p> <p>corrected [2] 99:14,16</p> <p>correctly [3] 39:23 144:19 250:25</p> <p>correlate [1] 184:3</p> <p>correlating [1] 107:24</p> <p>correlation [13] 19:8 34:25 63:11 74:8 77:6 102:25 131:7,11,13,14 132:9 184:14 218:5</p> <p>cost [8] 22:8,15 172:16,22,23,24 249:8 259:2</p> <p>costs [1] 7:8</p> <p>couldn't [2] 224:15 237:6</p> <p>COUNSEL [19] 5:6,20 27:5,10,11 37:8,12 56:6,14 62:23 71:25 81:4 85:3 86:8 92:24 105:6 155:2 189:24 261:21</p> <p>count [1] 180:17</p> <p>counties [1] 186:23</p> <p>counting [1] 156:2</p> <p>country [7] 21:9 27:17 34:9 161:6,16 163:25 186:7</p> <p>couple [10] 81:22 123:11 124:25</p>	<p>125:15 148:10 188:19 195:17 196:21 204:13 250:22</p> <p>course [17] 9:12 12:3 19:17 21:4 49:1 62:11 65:18 66:7 159:22 167:2,5 174:12 178:9 183:10 229:23 235:22 258:18</p> <p>courses [1] 162:2</p> <p>Court [2] 45:25 266:10</p> <p>cover [2] 13:17 28:19</p> <p>covered [3] 16:4 120:1 247:6</p> <p>covers [2] 11:23 15:7</p> <p>Cowan [2] 97:18 231:12</p> <p>Cowan's [2] 97:13 98:13</p> <p>Cowen's [1] 97:9</p> <p>CPAs [1] 163:3</p> <p>cram [1] 75:12</p> <p>CRB [2] 80:11 99:21</p> <p>create [5] 78:1 106:13 107:12 113:25 130:15</p> <p>created [1] 30:22</p> <p>creates [3] 43:8 158:8,16</p> <p>creating [2] 91:2 168:7</p> <p>credibility [1] 34:2</p> <p>credible [3] 30:15 134:6 228:3</p> <p>Creflo [1] 223:15</p> <p>criticism [1] 97:17</p> <p>criticisms [4] 76:14,15 77:2 191:9</p> <p>criticize [1] 232:2</p> <p>criticized [1] 231:10</p> <p>critique [1] 33:20</p> <p>critiqued [1] 231:15</p> <p>CROSS [1] 264:7</p> <p>cross-examination [7] 71:15,22 96:5 142:2,3 143:12 189:21</p> <p>cross-examine [1] 171:19</p> <p>CRR [1] 1:24</p> <p>Cs [2] 6:22 24:5</p> <p>CSO [29] 42:11,12 45:4 80:4 82:24 83:15 91:19 134:10,11 135:1 136:8,10 200:2,3 201:3 207:8,22 208:19 209:20 210:20 229:16 240:7 242:1 251:17,21 252:22 253:13 260:13,15</p> <p>CSO's [2] 134:18 176:1</p> <p>CSOs [15] 42:16 44:17 83:7 84:3 85:16 90:11 92:3,19 94:21 95:2 207:9 229:19 230:4 255:16 257:8</p> <p>cum [1] 160:2</p> <p>curious [1] 45:1</p> <p>currency [2] 31:12 245:18</p> <p>current [4] 38:17 39:1 40:12 77:16</p> <p>currently [1] 235:5</p> <p>curriculum [5] 51:6 161:8 164:15 234:8,15</p> <p>custom [2] 32:22 35:8</p> <p>customers [3] 102:5,6 137:1</p> <p>customized [1] 180:24</p> <p>cut [3] 86:7 174:9 241:13</p> <p>cutoff [1] 112:23</p>	<p>D.C. [8] 1:3,18 2:16,23 3:8 9:13,17 179:7</p> <p>D.C.-based [1] 159:20</p> <p>data [231] 11:6,22 12:10 13:2,9,10,12,15,17,23 14:6,7 15:1,2,2,5 16:3,6,22,23 18:11,12,13,14,17,21,25 19:3,3 21:16 22:8,16 23:3,11,16,18,19,21 25:19,21,22 26:11 32:9,13,14,16,25,25 33:4,6,7,15,20 35:6,9,11,13 41:7,17 47:13 49:15,17 50:7,9 51:12 52:20 53:13,15,19,20 54:23 55:8,12,15,22 56:10 57:2 58:2 60:4 61:11,14,23 62:2,3,6,8,12,16,18,19 63:3,7 64:24 66:25 67:3 76:19,24 77:17 78:17,20,22 79:8 90:19 94:12,23 95:4,6 98:25 103:15 104:6 106:1,2 107:13 108:15,18,23 109:2,4,17 112:11 113:22,23 119:1,9,10 120:5,9,15,23 121:14 122:10,12,18 127:17 128:9,10 129:2,4,11,12 130:7,12 132:9 134:4 138:10 149:25 151:20 152:4 153:4,15 156:8 158:4,5 170:20 173:7 174:16,17 178:18 180:18 181:2,7,8,12,15,18,20 182:18,23 183:4,12 184:1,9,15,16,21,25 185:4,6,7,21 186:9 188:14,14,18,21 190:16 194:18 195:1 202:24 203:5 223:5,5,6 228:6,7,16,17 229:8,10,11 232:15 233:21 236:8,16,17,20,22,24 237:3,4,10,13 238:9 239:4,12,20 241:7 244:9 245:18 249:3,4 254:21 258:2,12,13,14,16,21 259:4,5,11</p> <p>database [8] 40:11,17,24 41:2 55:23 61:21 91:2 108:4</p> <p>databases [2] 40:13 50:8</p> <p>Date [1] 266:10</p> <p>DAVID [1] 1:13</p> <p>day [5] 39:4 104:9 188:15 243:11 262:13</p> <p>days [4] 104:10 239:25 240:12 243:9</p> <p>deal [8] 78:19 113:2 121:13 149:24 203:3 239:16</p> <p>dealing [3] 31:15 88:17 132:7</p> <p>deals [2] 83:11 145:3</p> <p>dealt [1] 145:21</p> <p>dearth [2] 40:4 41:4</p> <p>debate [1] 42:5</p> <p>decade [1] 29:25</p> <p>decide [5] 24:9,11 25:20 91:7 252:22</p> <p>decided [3] 37:24 75:14 126:10</p> <p>deciding [5] 8:12 53:9 91:20 94:7 251:20</p> <p>decision [58] 31:25 38:19 41:13 45:14 46:1 80:15,18,20,25 83:3,5 84:3,4,6 85:18 92:6,20 93:12 99:24 100:15 119:22 120:2,3,10,12 124:4,5,8 134:10,12 135:1 136:1,11,14 152:17 165:25 166:3,18 167:13 176:1 185:3 190:10,14,20,21,25 191:16,17,19 192:3,10 193:10 194:22 195:19 231:4 249:23 252:4 260:1</p> <p>decision-makers [1] 228:10</p> <p>decision-making [8] 42:18 91:10,13 94:3 251:17,19,22 260:14</p> <p>decisions [25] 24:17,18 42:9 88:11 90:13,22 92:3 94:17 95:3 124:11 137:12 162:19 166:14,16 188:10 193:13 229:1,11,16,17 233:23 242:5 248:17 249:7 255:1</p> <p>declaration [3] 23:12 47:8,11</p> <p>declarations [2] 23:9 47:14</p> <p>decrease [1] 221:3</p> <p>decreased [1] 224:11</p> <p>decreasing [1] 219:22</p> <p>deemed [1] 191:12</p> <p>define [4] 54:8 67:9 107:17 153:3</p> <p>defined [2] 29:21 181:10</p> <p>defining [1] 178:23</p> <p>Definitely [3] 52:14 55:1 154:21</p> <p>definition [1] 178:3</p> <p>degrade [2] 19:17 66:16</p> <p>degrading [1] 19:12</p> <p>degree [6] 49:3 160:2,7 233:13 256:15,16</p> <p>degrees [2] 49:7,19</p> <p>delivery [1] 180:14</p> <p>Deloitte [1] 34:12</p> <p>demand [4] 88:21 90:4,15 94:15</p> <p>democratic [1] 233:15</p> <p>demographic [3] 232:17 233:15,20</p> <p>demographics [12] 232:3,10,12,13,14,21,22,24 233:1,9,18,25</p> <p>demonstrate [1] 217:24</p> <p>demonstrated [2] 179:15 223:20</p> <p>denied [1] 145:22</p> <p>denominator [2] 106:15 107:20</p> <p>deny [1] 252:8</p> <p>departure [1] 188:7</p> <p>depending [2] 130:22 257:5</p> <p>depends [2] 255:22 256:12,12</p> <p>deposits [1] 214:17</p> <p>derived [6] 90:15 149:17 167:11 175:3 179:25 181:12</p> <p>describe [9] 23:1 33:5 48:24 52:12 153:9 157:2 172:3 205:17 248:22</p> <p>described [4] 109:2 110:19 208:16 240:4</p> <p>describing [1] 118:23</p> <p>designated [8] 9:5 21:24 46:17,21 141:12 143:23 144:21,22</p> <p>designating [1] 161:15</p> <p>designation [1] 161:24</p> <p>designed [3] 12:8,12 228:8</p> <p>Despite [3] 208:18 209:19 238:7</p> <p>detail [1] 157:10</p>
--	--	---

Distributions of the 2004-2009 and 1999-2009 Cable Royalty Funds

April 9, 2018

Docket Nos. 2012-6 CRB CD (2004-2009) (Phase II) and 2012-7 CRB SD (1999-2009) (Phase II)

<p>detailed [8] 17:2 109:23 110:2 111:13 113:6 166:19 181:15 194:13</p> <p>details [2] 60:18 113:25</p> <p>detectable [3] 65:15 70:22 71:9</p> <p>detergent [1] 186:6</p> <p>determination [6] 34:23 170:9 173:16 190:24 250:6 260:22</p> <p>determinations [2] 187:4 227:5</p> <p>determine [7] 9:20 10:6 31:23 81:17 244:12 260:4 261:10</p> <p>determined [1] 172:19</p> <p>determining [4] 29:7 30:8 235:17 249:8</p> <p>detriment [1] 241:12</p> <p>develop [1] 170:7</p> <p>developed [1] 33:11</p> <p>developing [1] 54:5</p> <p>Devotional [58] 2:19 3:2 4:14 5:7 7:5 10:1 11:18,20 12:7 13:16 14:3, 14,19,24 15:9,15,19,25 16:10 20:22,24 29:10 31:17 52:15,18 53:11 54:4,22,25 55:2,17 63:19 67:24 88:18,22 89:7,19,25 90:5,10 105:12 138:13 170:12 173:24 178:21 179:21 181:25 182:11 220:25 221:1 224:17,20 225:13 239:23 246:14,19 250:8 254:19</p> <p>Devotional-rated [1] 224:11</p> <p>Devotionals [1] 147:24</p> <p>diaries [1] 40:23</p> <p>diary [5] 32:18 78:8,23 79:1</p> <p>Dickinson [1] 160:3</p> <p>dictated [1] 235:5</p> <p>differ [2] 45:8 101:16</p> <p>difference [8] 38:16 59:15 71:9 93:14 102:4,18 116:11 148:19</p> <p>differences [2] 29:11,15</p> <p>different [48] 9:17 13:22 19:6 21:9 45:5 50:22 57:7 61:1 65:18 68:9 84:17 86:13 88:11,25 90:7 101:10, 18,22 102:16,17,19,22 104:3 108:20,21 109:9,17 115:8 123:24 128:5,14 129:8,8 135:1 136:15 138:5 165:7 178:14,23 182:21 186:1,11 204:13 208:10 223:14 234:15 243:14 249:21</p> <p>differentiation [1] 14:12</p> <p>differentiators [1] 88:21</p> <p>differently [1] 90:7</p> <p>difficult [2] 94:11 114:15</p> <p>dig [1] 113:6</p> <p>digits [1] 75:15</p> <p>DIMA [2] 2:13 27:11</p> <p>dimension [1] 64:17</p> <p>dire [7] 164:25 165:2 168:11 251:1, 9 252:15 264:15</p> <p>direct [46] 20:8 26:22 46:22,23 47:15 48:10 51:7,8,21 67:18 72:16, 16 81:21 82:4,7 84:22 97:7,14,21 99:5,9,12,13 122:25 123:4 139:1</p>	<p>141:8,11 144:6 159:12 161:9 163:18 164:18 169:6,14 188:25 189:5 190:2 193:9 195:20 211:21 212:3, 7 221:12 243:18 264:7</p> <p>directed [1] 246:19</p> <p>direction [2] 188:19 235:24</p> <p>directly [5] 27:22 131:15 143:25 247:22 256:19</p> <p>director [1] 48:17</p> <p>DirectTV [1] 210:17</p> <p>disagree [10] 84:12 88:6 218:4 257:13,16 259:15,21 260:10 261:8,16</p> <p>disagreed [2] 202:21 260:20</p> <p>disallow [1] 251:1</p> <p>disclosed [1] 96:6</p> <p>discount [1] 211:1</p> <p>discrete [2] 163:7,8</p> <p>discuss [1] 219:21</p> <p>discussed [8] 38:17 50:2 70:13 119:20 152:3,4</p> <p>discussing [4] 95:19 133:20 194:8 247:22</p> <p>discussion [3] 31:4 82:3 254:8</p> <p>discussions [2] 62:9 247:16</p> <p>distance [1] 132:8</p> <p>distant [121] 10:3,9 11:3 18:4,8,12, 17,19,21 19:3,9,16,22,25 20:11 26:17 31:2 33:1,8 35:2 53:20,23,25 54:2 61:4,8,19,25 62:5,7,7 63:3, 10,13 64:3,7,12,21 65:4,10,20 66:17,23,24 67:5,8 74:9 83:14,19,22 94:1,5 100:21 101:1,3,11,17 102:15,22,25 103:4,6,7,9,13,14,22 104:4 105:15 106:10,13,14,17,24,24 107:5,6,7,13,17,19,21 108:16,18 109:13 130:14 131:7 158:10,11, 18,18 166:15 167:20,23 172:24 180:25 181:2 184:2,14 185:8 186:13,14,16,17 198:2 235:11 236:8, 11,12,22,24 237:4,24 243:4 250:7 254:1,20 256:7 258:8,20 259:4</p> <p>distantly [3] 30:25 33:9 53:10</p> <p>distinct [1] 243:4</p> <p>distinction [13] 14:2 44:24 45:19 72:19,21 88:8 89:17 102:11,15 119:17 135:12 211:17 252:13</p> <p>distinctions [1] 89:6</p> <p>distinguish [5] 94:23 95:5 102:9 108:8 245:2</p> <p>distinguished [1] 34:4</p> <p>distinguishing [1] 72:15</p> <p>distribute [2] 4:9 52:17</p> <p>distributed [1] 203:11</p> <p>Distribution [14] 4:5 7:9 30:2,20 31:16 36:23 43:2 44:22 50:17 80:18 137:6 164:10 191:3 210:22</p> <p>distributor [1] 211:8</p> <p>distributors [1] 27:24</p> <p>divide [3] 68:14,17 106:9</p> <p>dividing [3] 93:17,19 110:15</p>	<p>division [3] 147:13 217:4 219:24</p> <p>division's [1] 220:11</p> <p>divorced [1] 233:9</p> <p>DMA [5] 20:18 175:4 186:15,20,23</p> <p>DMAs [2] 182:3 210:23</p> <p>Doctor [1] 72:16</p> <p>document [30] 79:22 84:17,19 85:20 86:23 87:1,15 173:24 194:11, 14 206:9,21 214:7,9,11 216:10,13, 14,16,17,19,21,25 217:6,10 218:10,16 220:3,5,8</p> <p>documented [2] 185:12 242:7</p> <p>documenting [1] 162:9</p> <p>documents [8] 140:6 141:8,12,15, 17 231:9</p> <p>doing [18] 10:6,12,25 13:25 18:10 65:6 119:7 138:12 152:13 161:1 162:21,21 166:8 167:18 186:5 212:8 247:25 251:9</p> <p>Dollar [1] 223:15</p> <p>dollars [3] 229:21,24 230:2</p> <p>dominate [1] 224:2</p> <p>DOMINIQUE [2] 2:12 27:11</p> <p>done [31] 5:1 6:17 16:14 19:5,9 22:13,14,18 40:9 56:4 57:4 60:25 61:6 63:2 87:24 168:2 176:18 182:16 183:12 192:23 195:1 234:6 239:2 240:18 243:9,10 250:3,22 252:2 255:12 262:12</p> <p>door [5] 25:9,12 85:25 92:24 262:2</p> <p>double [1] 160:4</p> <p>down [20] 64:14 65:6,9 67:12 77:14,21 78:8 82:9 86:8 94:3 159:1 161:6 181:11 191:1 213:15,18,23 215:14 232:16 262:18</p> <p>drama [1] 28:23</p> <p>drive [1] 94:15</p> <p>driver [3] 64:6 90:3 108:21</p> <p>drivers [1] 90:12</p> <p>drives [5] 90:2,2,23,24 130:19</p> <p>driving [1] 137:13</p> <p>Ducey [9] 86:17 95:22 193:6 195:18 196:17 198:4,17 199:22 200:13</p> <p>Ducey's [9] 87:3 193:7 195:9 197:15 198:8 199:2,10,15 200:11</p> <p>dug [1] 239:10</p> <p>duly [2] 48:7 159:8</p> <p>dummies [4] 19:15 64:1 65:23 71:4</p> <p>duplicating [1] 146:24</p> <p>Dupont [1] 179:8</p> <p>durations [1] 130:16</p> <p>during [12] 5:19,19 15:5 19:20 33:9 38:6 47:10 66:7 154:13 183:16 231:8 235:21</p> <p>duties [1] 24:8</p> <p>duty [1] 24:11</p>	<p>8,14 34:1,3 71:1 77:24 78:3,4,13 79:3 105:22 109:23 143:18 148:24 149:3,9 151:19,25 156:2,4 162:3 163:16 173:6 179:9 180:16 210:23 243:11,13,13 254:21</p> <p>earlier [9] 124:6 133:14 134:9 136:20 140:16 183:5 212:13 231:25 261:2</p> <p>early [2] 189:14 214:3</p> <p>ears [1] 145:16</p> <p>easel [1] 152:10</p> <p>easier [2] 69:17 193:11</p> <p>easily [1] 29:3</p> <p>easy [2] 4:19 70:10</p> <p>econometric [2] 9:2 50:2</p> <p>econometrics [3] 50:19 51:3,12</p> <p>economic [15] 29:16,18 31:24 48:18,20 49:10 50:1,21,24 65:16 90:15 161:3 185:12 186:25 236:2</p> <p>economically [1] 211:15</p> <p>economics [4] 34:11 49:6,8 160:5</p> <p>economist [9] 9:1 30:4,17 48:17, 19 67:20 135:5,10,24</p> <p>economists [1] 134:4</p> <p>ecosystem [1] 210:25</p> <p>ECRB [2] 197:3,6</p> <p>educational [2] 48:25 159:25</p> <p>effect [5] 63:22 120:14 202:2,22 204:18</p> <p>efficacy [2] 39:11 42:2</p> <p>efficiency [1] 8:4</p> <p>efficient [1] 248:23</p> <p>effort [4] 40:12 113:10 170:20 182:18</p> <p>efforts [5] 116:8 122:9 185:17 191:8 238:8</p> <p>Egan [22] 42:14 73:17 84:20 85:6 86:20 192:24,25 201:2,17 202:21 203:23 204:12 205:24 207:4,8 208:19 209:2,20 210:20 212:2 261:1,4</p> <p>Egan's [9] 87:2,3 200:22 201:18 202:11 206:10 207:20 261:20,24</p> <p>eight [3] 128:5 183:2,3</p> <p>either [18] 24:16 28:12 32:7 33:20 46:2 59:8 68:25 78:9 117:11 134:10 138:5 142:15 157:5 163:18 204:25 226:16 230:19 248:22</p> <p>elaborated [1] 231:3</p> <p>element [1] 188:16</p> <p>elements [1] 256:6</p> <p>elsewhere [3] 128:2,10,11</p> <p>embracing [1] 43:9</p> <p>emphasize [1] 18:5</p> <p>employed [2] 249:5 254:25</p> <p>employee [2] 47:12 165:18</p> <p>empty [1] 15:17</p> <p>enable [1] 25:20</p> <p>encapsulates [1] 244:18</p> <p>encourage [1] 4:20</p> <p>end [13] 30:7 37:3 59:16 109:23,25</p>
---	---	--	---

E

each [35] 11:9,11 17:25 28:6 33:4,

Heritage Reporting Corporation
(202) 628-4888

110:25 117:22 126:4,12,18 188:15 238:4 245:16 endeavor [2] 167:14,16 endorse [2] 253:23,24 ends [1] 255:10 energy [1] 113:12 engaged [3] 15:12 52:12 176:9 engagement [2] 170:3,5 engagements [4] 172:7,15 173:13 194:20 enhance [1] 8:3 enough [19] 41:16,17 42:25 44:5,6 87:4 92:17 131:12 140:1 154:11 165:12 188:21 192:24 207:17 242:15 entire [14] 16:4,5 81:15 183:6 184:17 191:24 196:23,23 197:6 236:18 246:4,5 248:25 249:1 entirely [3] 13:10 38:8 238:16 entities [2] 80:12 185:12 entitled [3] 26:5 75:23 260:21 entries [1] 79:1 episode [1] 149:4 equipment [1] 161:21 equivalent [1] 255:24 equivalently [1] 70:15 era [1] 8:9 Erdem [34] 9:1 16:14 19:5 23:6 47:25 48:6,12,17 51:11,15,18 52:11 53:8 71:24 86:5 90:14 116:7 142:6,15 143:11 148:9 155:12,19 158:23 170:7 172:4 180:5,7,9 182:13 184:5,12 254:6 264:8 Erdem's [7] 23:24 25:22 53:2 86:2 183:11 223:4 243:19 Erkan [5] 9:1 47:25 48:6,16 264:8 erosion [1] 224:22 errant [1] 141:3 error [9] 68:8,14,17,18,19,22 69:1,14 Especially [2] 55:16,17 ESQ [9] 2:3,10,11,12,13,20 3:3,4,5 essentially [6] 95:1 113:16 118:12 221:15 227:12 256:1 establish [11] 12:18 19:10 34:25 74:7 101:4 121:6 184:2 198:14 202:17 205:12,13 established [5] 29:24 146:19 176:14 243:25 247:14 establishing [2] 198:6 249:9 estate [2] 10:18 175:6 estimate [12] 18:8 33:8 68:16 78:13,15,19 79:12 83:23 110:5 173:20 174:21,22 estimates [4] 53:24 121:12 151:19 258:8 estimation [1] 40:17 et [4] 43:4,5,5 193:18 ether [1] 124:12 ethics [1] 162:3 evaluating [2] 172:4 178:13	even [18] 17:19 27:21 28:18 38:25 40:16,18 41:2 55:15 59:4,13 60:3 84:1 109:21 130:10 156:4 158:7,14 216:18 eventually [1] 111:16 everybody [1] 140:13 everything [5] 22:13 51:24 59:7 169:17 185:18 everywhere [1] 21:3 evidence [46] 24:13 30:10,14,15,18 31:11 32:1,5,11 34:24 35:17 38:13 43:4 44:9 45:16 46:21 47:5,23 52:3,9,20 86:1 96:3,4,14 97:5 131:21 134:25 140:7 141:17 142:19 144:21,21 145:18 147:3,9 169:21 170:1 175:19,20 198:16 209:1 214:20 227:22 241:21 242:7 evolve [1] 16:18 exacerbated [1] 40:8 exact [1] 229:3 exacting [1] 228:17 exactly [11] 15:23 21:25 22:4 86:9 150:16 177:14 238:21 239:4 248:1 252:10 259:7 exam [3] 162:3,4,4 EXAMINATION [6] 48:10 148:7 159:12 165:2 169:6 257:23 examined [2] 48:7 159:8 example [16] 10:17 12:25 14:5 21:6 50:5 54:18 57:9 77:4 80:15 90:15 92:2 98:23,24 116:15 163:22 179:2 examples [1] 160:16 excellent [1] 11:19 except [2] 190:9 222:20 exception [1] 20:20 exchange [1] 144:3 exclude [2] 105:7,8 excluded [4] 98:1 111:20 113:11 223:17 excludes [1] 239:24 excuse [18] 37:18 42:2 98:19 109:14 115:9 121:17 125:20,22 166:22 217:17 223:11 229:9,10 240:2 243:19 248:13,19 253:20 excused [2] 158:24 262:16 executive [1] 20:4 executives [2] 136:8 182:21 exercise [4] 14:24 22:11 178:19 185:22 exercises [1] 172:19 exhaustive [1] 185:17 exhibit [64] 4:17 22:2 26:23 47:4,7,10,22 51:7,8,19,20,24 52:3,6,8 57:15,16 59:17,22 67:19 68:9 75:12 85:4 86:15,16 87:6,8 95:15,25 96:11,13,18 97:4,24 124:8,12,17,21 138:25 140:14 145:21,23 161:10 169:9,13,18,21,25 170:24 171:8,18,21 195:15 196:15 197:2 203:21 204:18 205:23 214:8,20 219:1	234:16,16 265:2 Exhibits [9] 46:16 96:5 142:3 143:6 145:17 146:4,18,24 147:8 exist [9] 56:10 59:3 62:10 106:23 107:4 124:11 152:5 237:7 existed [1] 126:7 existence [2] 154:13,15 existing [2] 138:2 228:23 exists [1] 106:23 expand [3] 40:12,25 252:12 expanded [4] 40:11,16,24 186:20 expect [4] 20:3 33:23 79:20 102:18 expectations [1] 65:16 expects [1] 33:25 expedite [1] 141:1 expedited [1] 145:15 expeditious [1] 7:9 expend [1] 7:13 expense [1] 168:3 experience [29] 8:23 21:17,19 26:6,9 34:6 49:1 51:1 67:22 160:1 162:10,11 167:11 168:16 185:15,24 189:3 201:3 202:25 207:11,16,22 210:3 233:20 234:9,10 251:24,25 252:1 experienced [6] 9:2,7 20:4 37:20 208:18 209:20 experiment [3] 151:8 153:7,10 experimentation [1] 153:12 expert [28] 8:19,21 9:1 30:3,17 50:10,12,15 51:11 61:15 72:10 164:21 168:12,20,21,25 169:3 171:1 244:15 245:9,9,25 248:2,9 249:23,24 251:2 252:8 expertise [20] 171:5,16,22 175:24 176:2,4,11,14,15 185:24 189:3 243:25 244:19 245:6 246:25 247:14 248:15 251:23 254:5,5 experts [6] 23:19 34:9 45:2 54:6 66:21 231:11 explain [20] 23:20 30:4,18 31:24 32:24 35:4,7,12 63:12 76:18 89:16 94:12 108:25 111:14 120:17 148:18 161:13 173:17 175:14 252:12 explained [3] 23:25 126:24 133:5 explaining [1] 94:6 explains [1] 31:18 explanation [4] 46:7 120:6 224:15,19 exposed [3] 174:19 175:5 180:18 expressed [3] 83:5 200:13 201:14 expresses [2] 95:18 207:22 expressing [1] 98:21 extant [1] 38:20 extend [1] 66:3 extension [1] 61:23 extensive [1] 238:7 extent [10] 18:3 33:22 43:6 91:5,6 131:11 144:9 170:25 199:25 223:	19 extra [2] 81:6 113:12 extracted [2] 173:23,25 extrapolate [1] 133:23 eyeballs [1] 43:23 F facilitate [1] 249:6 fact [25] 8:13 20:23 26:2,4 28:17 29:12 39:16 41:22,23 42:8 85:15 98:24 114:19 136:12 144:9 152:15 164:1 182:8 195:4 208:18 209:20 220:7 224:18 238:24 261:3 factor [9] 91:9 96:20 103:8 110:12 200:2 201:4 213:12 236:2 245:2 factorial [6] 152:23,25 153:17,23 154:6,10 factors [4] 26:14 39:18 43:14 176:5 facts [1] 150:6 factual [1] 211:5 fair [18] 7:18 65:12 74:5 87:4 92:17 131:12 135:7 139:25 165:12 170:8,9 171:11 173:16,20 189:6 192:24 231:15 250:6 fairly [1] 162:18 fall [3] 14:14 121:23 226:17 falls [1] 14:15 familiar [16] 18:23 75:18,19 119:22 123:12 128:16,21 186:4 190:23 191:2 199:4 214:9 242:8,10,16,19 familiarity [2] 195:9 200:22 FAPR [1] 1:24 far [7] 62:13 100:3,8 173:1 193:13,14 216:13 fare [1] 242:3 fashion [4] 59:17 140:12 172:2 196:18 fastest [1] 154:11 favor [2] 112:5,13 favorable [2] 126:10,11 favored [1] 126:8 features [1] 242:20 February [25] 11:9,14 16:25 17:7,11,22 40:19,20 56:2 57:8,10 58:10 59:11,19 60:11 76:20 104:15,16 127:18 131:25 132:13 150:3 157:17,25 182:11 FEDER [15] 1:12 6:12 58:23 90:14 113:14,16,22 130:3 131:2 139:12 182:1,5 204:5,8 238:1 federal [3] 49:11 80:20 136:20 fee [11] 91:8,21 99:25 251:21 252:23 253:14,17 256:7,11,12 257:10 feeds [1] 94:16 feel [9] 44:7 60:5 64:8 76:25 102:24 134:1 185:9,16 188:20 fees [16] 4:6 213:5 215:2,3,6,12,24,25 216:11 217:17 218:6 229:25 230:25 255:15 256:3,4
---	--	---	--

feet [2] 10:22 175:8 felt [1] 239:9 few [11] 49:2 57:7 63:17 118:7 134:6 157:12 159:24 178:10 224:1 228:6 258:7 fewer [1] 48:2 fiat [1] 45:21 field [12] 9:9 20:5 50:3 92:19 162:10,11 174:24 185:24 207:12 249:24 251:25 252:1 fields [2] 9:3 51:11 figure [8] 110:10 158:9,17 219:18 220:20,21,21,25 figures [9] 123:5 219:19 220:24 221:19 222:21 223:11,12,16,25 file [3] 15:23 28:3 255:17 filed [2] 197:3,5 files [2] 15:20 113:7 final [4] 16:24 34:23 36:23 190:24 finally [2] 30:14 259:13 financial [2] 161:3 162:25 find [15] 15:15,20 20:2 31:19 59:25 63:14 64:5 65:21 68:7,8 170:20 174:21 182:18 185:18 207:24 finders [2] 26:2,4 finding [1] 10:15 findings [2] 63:21 152:15 fine [1] 261:22 finished [1] 206:24 firm [4] 48:22 159:20 165:19 234:6 firmlly [1] 25:11 firms [2] 163:4 185:13 first [6] 10:19 11:17 13:11 24:2 30:10,16 38:23 42:13 48:7 53:14 63:25 64:19,25 72:17 79:25 80:10 84:21 87:22 108:9 121:8 131:16 132:3,12,20 139:2,7 155:3 159:8 164:11 167:15,18 169:8 170:6,15 178:22 180:22 182:17 192:2 194:10 195:17 196:16 203:24 205:25 206:7 215:2 217:19 219:12,17 223:6 229:5 238:4,6 241:18 246:12 248:21 250:4 254:12,12 255:3,4 257:4 firsthand [1] 166:23 fish [1] 179:23 five [15] 42:19 62:1,2 111:17 112:7 129:11,12,15 130:22 132:24 179:8 184:15 185:7 240:12 243:9 fix [1] 74:3 flag [1] 151:5 flagged [1] 193:10 Floor [1] 2:15 focus [8] 44:18 46:6 49:13 77:13 160:20,21 166:7 186:6 focused [4] 5:14 43:13 162:12 190:21 focusing [8] 39:5 42:3 43:7,19 102:14 134:23 222:19 232:11 follow [3] 133:11 173:12 262:25 follow-up [1] 215:18	following [2] 35:22 146:4 follows [2] 48:8 159:9 foot [1] 175:8 footage [1] 10:20 footnote [3] 126:3,24 255:10 force [1] 137:13 Ford [1] 192:16 foreclosed [2] 42:5 171:14 foregoing [1] 266:3 foreign [2] 43:13 44:9 foreseeing [1] 240:17 Forget [1] 251:14 form [3] 79:2 162:25 255:21 former [3] 124:8,10 130:8 formula [2] 67:12 152:11 forth [7] 26:21 28:24 51:6 164:15 194:5 198:4 222:25 forward [1] 188:22 found [11] 15:23 19:15 23:11 34:22 35:1 44:4 57:9,18 104:22 126:23 202:5 foundation [21] 85:9,10 87:9 93:6 95:9 99:6 146:18,22 180:8 198:12,16,20 200:5,17 201:7 208:21,24 209:1 214:21 216:15 219:6 foundational [1] 216:5 founders [1] 160:12 four [23] 11:10,25 12:3 55:13 56:25 58:2,4 75:12 78:2 111:18 112:8 127:19 130:10,10,16,17,25 131:1 162:2 174:11 184:8,10 207:9 fourth [1] 164:9 fraction [1] 222:1 fragment [1] 196:10 frame [1] 24:19 framework [2] 7:25 8:11 frankly [3] 7:16 139:6 228:14 Frazier [1] 160:10 frequently [1] 50:3 Friday [1] 144:1 Fridays [1] 179:23 front [9] 51:19 74:22 79:23 86:18 169:10,11,12,12 231:5 full [25] 11:13 16:25 17:20 46:22 56:18 57:9 60:11,17,20 104:25 127:20 145:5 183:15 194:14 229:5 236:15 244:23,25 248:21 250:4,5 254:13 255:3,4 261:25 fully [3] 51:5 253:23,24 function [1] 13:6 fund [1] 37:2 fundamental [3] 26:18 42:7 43:7 FUNDS [10] 1:6,9 7:10,13 36:6 80:19 124:5 189:7 244:5,6 further [16] 17:6 46:2,9 71:13 137:24 147:22 155:9 158:22 164:15 168:10 173:17 189:10 202:2 250:12 257:18 262:10 furtherance [1] 5:17 future [2] 25:7 38:18	G GALAZ [4] 3:12 73:15 99:9,11 garnered [1] 221:9 gather [1] 73:8 gathered [1] 32:11 gave [2] 46:2 194:11 general [7] 80:12,14 89:1 97:13 179:24,24 258:23 generally [12] 37:13 49:17 93:24 114:14 139:24 199:22 206:2 213:25 214:1 232:5 245:20 255:19 generate [3] 151:21 226:14,16 generated [3] 221:23 222:1 230:18 generating [2] 175:21 227:3 generation [1] 259:11 generic [1] 188:5 generically [1] 186:2 genre [2] 28:20 225:20 gentleman [1] 192:16 geographically [1] 166:15 gets [2] 232:25 253:15 getting [5] 93:8 143:17 218:25 234:18 257:1 give [13] 21:13 66:25 67:10 78:12 84:15 96:25 103:16,24 120:5 159:24 160:16 179:2 192:14 given [15] 46:7 57:14 64:13 65:7 77:25 130:11,23,24 138:2 141:18 157:3 207:21 213:13 235:23 250:14 gives [6] 53:16 55:9 62:1 66:3 108:18 157:15 giving [2] 143:18,21 glance [2] 191:25 238:5 global [1] 48:21 goal [5] 5:22,24 6:12 10:11 80:3 82:24 84:10 203:24 goals [1] 7:6 God [1] 21:4 Google [1] 154:2 got [10] 41:18,20 42:14 49:3 75:8 111:2 136:17 216:5 235:4 236:15 gotten [1] 41:5 govern [1] 30:12 government [1] 161:2 Gracenote [1] 33:6 gradually [1] 213:6 graduate [1] 51:2 granular [2] 174:7 181:15 graphs [1] 223:18 Gray [19] 13:25 14:5 30:3,17,18 31:14,18,24 32:5,24 33:4,10,16 34:5,11 35:1,11,12 262:24 Gray's [2] 33:20,22 Great [1] 154:7 greater [2] 179:13 181:24 Greg [1] 27:10 GREGORY [2] 2:10 193:4 grew [2] 41:2,3	Gross [1] 160:10 ground [1] 146:20 groundhog [1] 25:16 grounds [3] 95:17 171:4 246:24 Group [7] 2:2 9:16 37:9 72:1 145:24 170:13 186:6 groups [3] 179:25 253:18 254:19 growth [1] 214:16 guess [11] 39:20 89:12 123:22 124:6,9 141:19 183:18 197:23 222:6 234:14 238:15 guessing [1] 72:22 guy [1] 162:24 gyrations [1] 183:23
H			
Hagerstown [1] 186:18 halfway [1] 82:9 Hallmark [2] 242:16,25 hand [7] 48:4 148:20,23 159:5 179:16 194:16 218:7 handed [1] 4:17 handle [1] 44:10 Hang [1] 172:8 happen [4] 20:16 114:6 136:4,4 happens [1] 53:3 happy [4] 73:11 98:16 139:22 152:13 hard [3] 75:13 138:10 244:20 Harrisburg [1] 186:17 HBO [1] 243:14 head [3] 45:8 72:19 153:22 healthcare [1] 50:22 healthcare-related [1] 49:13 hear [8] 8:20 24:1 49:2 66:20 201:20 262:20 heard [9] 87:11,17 159:23 180:6 182:13 184:4 197:11 215:17,18 hearing [6] 4:4 141:17,19 144:4 194:12 263:3 hearings [1] 141:5 heart [5] 15:10 39:10 89:3 95:23 260:13 heartburn [1] 184:20 held [1] 210:1 help [1] 192:14 helped [1] 151:24 helping [1] 162:19 helps [2] 113:10 192:15 hence [1] 254:22 HHVH [17] 18:13 61:14,21 63:3,10 64:23 65:4 79:8 106:14 107:13 108:5 120:8,23 121:2 130:11 181:2 184:9 hierarchy [1] 45:8 high [6] 53:12 92:2 98:25 135:17 224:25 225:3 high-speed [1] 230:16 higher [3] 113:18 225:21 247:12 highly [2] 92:6 137:16 Hinn [1] 223:15			

<p>hired [1] 52:14 history [3] 34:4 154:13 155:8 holders [1] 170:11 HOLMES [1] 2:11 homogeneous [5] 88:19 89:7,15, 18 178:20 homogenous [2] 245:1 246:21 Honor [90] 4:12,16 5:3,8 6:11,15 23:5,23 27:7 38:4,10,21 39:15 46:14 47:6,24 51:10 52:2,25 71:21 73:20 80:23 85:2,23 87:7 92:23, 24 95:14 96:2,10,22 97:23 99:3 116:5 124:3,15 140:4,24 141:24 143:1,23 146:22,22 147:19 148:1, 4 152:9 164:20,24 168:19 169:5, 20 170:23 171:6,23,25 175:22 176:3 187:15 189:11,20 191:18 195:11,23 196:2 198:15,23 201:11 204:3 209:8 214:19 216:12 218:2,24 219:7,9 243:18 244:14 245:7,23 246:3 247:4,17,21 250:19 252:11 257:21 260:12,17,25 HONORABLE [3] 1:11,12,13 Honors [3] 37:4,10 160:3 hour [1] 62:17 hours [3] 61:14 103:7 104:9 household [12] 53:22 61:13,14 62:17 78:8 103:7 110:12 111:4 112:10 158:5 180:14 211:16 households [19] 12:2 110:3,16 117:24 118:10 149:18 152:2 157:8,13,16,19,23 174:19 175:2,4,5 180:17 221:24 223:20 However [11] 15:18 17:6 24:15 25:11 27:20 38:14 61:20 124:8 148:15 173:9 182:25 huge [1] 241:20 hundred [2] 118:7 157:12 hundreds [3] 79:15 148:16 149:2 150:12 156:10 181:17 190:15 197:8 hypotheses [1] 12:18 hypothetical [10] 7:11 13:6 24:17 59:18 116:15 117:17,18 118:22 153:20 187:25 hypothetically [2] 131:17 151:23 i.e [6] 40:20 85:16 171:1 188:2 232:24 241:15 idea [5] 113:20,21 153:21 248:6 259:8 ideas [1] 24:15 identical [2] 106:22 170:14 identified [1] 189:4 identifies [1] 196:16 identify [5] 125:3 144:3 145:12 204:11,14 ignored [2] 181:22 233:22 ignoring [1] 94:2 Il [10] 8:14,14 9:18,19 30:1 31:15</p>	<p>44:21 45:24 46:6 81:7 88:9,17 89:5,8 93:23,25 178:14 250:8 illogical [1] 210:10 imagine [5] 28:21 64:13 95:6 135:24 179:6 immediately [1] 169:11 impact [11] 29:15 59:20,25 60:1,6 66:16 114:12 118:16,20 119:3 126:15 impeach [6] 85:13 86:3 141:18 144:5,13 205:12 impeaches [1] 142:14 impeaching [1] 142:10 impeachment [10] 85:24 86:2 87:10 96:6,7,23 142:3,4,9,20 144:11, 17 146:20 147:2,5 205:9 219:7,11 implied [1] 89:2 import [1] 235:11 importance [4] 178:15,24 179:12 201:13 important [10] 13:14 22:9 25:25 26:1 29:11 64:6 134:20,20 180:3 231:19 impossible [2] 151:20,21 improperly [1] 144:20 improvement [2] 63:6 77:11 imputation [1] 109:19 imputations [1] 156:10 impute [6] 109:24 110:1 111:14 119:1 157:24 236:10 imputed [1] 155:23 imputing [3] 111:24 112:5 114:22 in-between [1] 249:12 in-depth [1] 174:7 inappropriate [1] 46:6 incidence [2] 98:25 116:24 incidences [2] 129:20 225:9 incidentally [1] 4:13 include [3] 31:4 63:18,25 125:2 163:9,23 190:2 247:15 254:7 included [5] 114:25 126:8,17 223:16 232:22 includes [6] 8:21 12:1 50:24 144:23 167:20 183:8 including [24] 8:25 16:2,5 28:1 39:4,5 43:15 60:22 149:15 162:13 164:3,23 168:23 193:20 212:2 231:11 232:10 238:9 240:23 244:16 245:10,25 249:14,25 inclusive [2] 113:8 146:25 income [6] 168:2,4 172:17 173:4,6 184:25 incomplete [3] 187:6,19,25 inconsistency [1] 142:7 inconsistent [6] 24:15 127:25 128:8 133:19 150:8 234:7 incorporate [2] 94:5 122:6 incorporated [4] 35:13 39:17,19 159:21 incorporating [2] 39:7 77:1 incorporation [1] 105:15</p>	<p>increase [1] 223:22 increased [5] 213:7,10,11,15 216:11 increasing [2] 215:12,13 incremental [2] 226:10 241:23 indeed [1] 215:6 indefinite [1] 7:13 Independence [1] 1:17 Independent [2] 2:2 9:15 37:9 63:14 72:1 170:13 217:6 235:7 indicate [3] 221:8,8 231:17 indicated [2] 179:1 181:16 indicates [1] 110:7 indicating [2] 199:15 208:4 indication [1] 112:15 indicator [1] 37:23 indicia [3] 37:15 39:3 44:6 individual [6] 45:10,15 90:21 91:2 129:8,21 130:6 173:6 individuals [1] 56:9 induced [1] 137:17 inducing [1] 137:25 indulge [1] 145:20 industries [3] 9:4 50:4,22 160:25 162:16 245:19 249:6 254:17 Industry [3] 21:12 26:8 100:6 167:24 210:4 214:4 industry-wide [1] 160:21 industry-wise [1] 211:16 influence [1] 91:12 influenced [2] 91:19 202:16 influences [1] 175:25 infomercial [1] 4:22 information [63] 7:3,14 11:20 12:23 13:7 16:16 17:3 21:13 22:23, 23 24:19,23 25:5 40:4 41:5,16 44:11 53:22 55:4 56:7,16 93:11 94:2 104:22 108:14,15 110:7,24 127:24 128:1 135:22 137:11 156:1 166:23,24 167:10 168:12 180:19, 22 181:7,8 184:7 187:6,7,19,20,21 188:8,11 194:21,25 203:6 235:24 236:13 237:14,24 238:12,17,21 239:14 241:2 258:3 260:16 informed [1] 182:22 informs [1] 167:11 initial [12] 72:5,12,25 73:14 98:6 123:16 131:24 164:11 178:1 187:9 190:3 191:6 initials [1] 161:25 input [4] 176:21 200:25 245:24 260:22 inputs [2] 245:8 247:23 249:22 insignificant [3] 70:7,19 240:5 instance [3] 38:7 110:17 112:18, 19 116:16,19 118:6,25 246:18 instances [3] 41:23 117:16 118:17,19,21 122:5 224:25 225:5,25 instead [7] 12:16 43:20 61:23 63:7, 11 113:24 236:10 insufficient [2] 34:24 131:14</p>	<p>intangible [2] 163:7,8 intended [7] 7:19 12:8,12,21 26:19 223:7 intensity [1] 88:4 interchangeably [1] 182:2 interconnect [1] 230:20 interest [1] 88:4 interested [6] 6:19 31:10 63:22 84:3 89:24 91:7 138:17 149:13 international [1] 160:5 Internet [2] 160:24 230:16 interpretation [1] 116:13 interval [2] 69:24,25 introduce [2] 48:14 159:16 introducing [3] 85:12 186:5,10 intuition [3] 65:16 135:6,10 invented [1] 25:10 inverse [2] 215:22 218:5 investigated [2] 57:6 102:7 investigation [1] 137:24 investment [1] 249:11 invitation [3] 110:18 111:8,20 involve [1] 178:14 involved [17] 23:7 48:20 49:10,14 54:14 66:22 128:17 162:17 163:13,18 165:24 172:23 173:5 180:11 182:19 190:18 191:4 involves [1] 9:24 involving [1] 9:3 IPG [64] 28:19 31:21 33:11 37:12 39:4,18 52:18,24 54:4 63:21 65:12 67:25 72:4 77:24 78:9 79:14, 18 97:20 103:18 109:20 111:12, 17,21 112:5,13 114:6,21,24 123:7, 16 125:3,13,24 126:2,11,13,14,23 127:5 128:15 129:25 133:16 138:8 142:19 144:2 148:15 149:6,7,20 165:5 170:13 189:24 190:3 209:10 212:3,7,11 221:25 222:16,21 223:14 231:11 244:7 258:4 IPG's [6] 97:7,14 99:4,13 211:21 212:18 isn't [17] 17:4 41:8 89:9 91:7 101:14 125:6 127:24 166:18 185:3,5 186:14 187:7 228:14 235:6 241:14,19,24 isolate [1] 119:13 issue [34] 4:14 11:21 15:6 17:12 28:7 34:1,23 37:25 39:9,19,21 40:10 45:23 103:2 109:7,17 114:15, 16 121:6,7 125:1 150:15 158:2 166:5 172:5 178:16 189:8 194:4,6 226:9,18 238:12 246:8 260:19 issued [2] 35:8 144:1 issues [6] 35:18 39:6 40:3 44:17 50:22 141:10 Istanbul [1] 49:9 it' [1] 130:25 items [1] 179:19 iteration [2] 39:1 170:16 itself [7] 8:11 69:14 74:23 75:1</p>
---	--	---	--

131:15 173:25 236:13	judgments [2] 187:3,3	led [1] 170:19	103:3,9,11 104:4,9 105:17,21 107:3,10 114:22 115:2 127:23 128:1 131:7 132:8 158:8,15,15 167:20 174:7 181:2,22 183:12 184:3,14 185:8,20 236:10 249:3,4 254:1 257:9
J	judicial [6] 124:17,18,19 219:2,3,5	left [5] 5:12 193:13,13,14 227:13	locally [1] 106:23
J-o-h-n [1] 159:18	Judith [1] 193:2	left-hand [2] 82:1,8	locate [2] 62:15 183:1
James [13] 111:16,20 112:6 113:13 114:23 117:5 150:3 157:4,11,14,19,25 192:19	June [1] 36:25	legal [1] 24:8	located [1] 68:22
Jeffrey [1] 30:3	K	lengthy [1] 126:3	log [1] 162:9
JESSE [1] 1:12	Kadlec [1] 160:10	less [5] 134:3,8 138:14 244:17 257:14	logic [1] 46:5
JESSICA [1] 3:5	Karen [2] 1:24 266:9	level [20] 51:2 53:12,18,25 55:5,8 91:1 92:2 93:19 112:10 119:9,10 121:13,14 135:17 156:8 158:4,21 240:10,14	logical [2] 31:3 45:17
jewelry [1] 161:20	Kenneth [1] 223:14	levied [1] 191:9	logically [2] 179:18 235:7
job [3] 179:4 260:5 261:11	Kessler [2] 19:2 32:14	librarian [2] 23:14 47:9	long [6] 22:17 34:3 55:11 100:6 117:18 191:25
jog [1] 206:13	key [5] 25:25 30:6 74:6,6 254:21	librarians [1] 56:11	longitudinal [1] 129:11
John [11] 8:22 21:19 54:7 56:7 67:14 100:1 159:3,7,18 192:16 264:13	kind [8] 18:25 59:22 89:2 130:4 188:1 191:24 215:14 228:13	libraries [1] 15:14	look [75] 10:19,24 20:6 21:21 25:5 43:20,25 44:1,19 45:23 51:19 58:3 59:16,25 62:1,4 68:11 70:5 74:21 75:18,21 76:6 79:23 81:12,17 84:17,18,25 86:14 87:5,14 88:19 90:6,11 91:23 95:2 98:12,14 99:23 107:25 110:9 113:25 119:3 120:20,23 136:6,7 138:24 149:5 157:2 169:9 177:7 186:7,19 191:15 194:20 195:10,14 203:20 204:17,22 205:22 206:1,20 212:5 214:6 218:21 232:3,15 234:14 260:3,4,8 261:9,15
joined [1] 56:6	knowledge [9] 66:18 128:23 169:16,19 194:13 211:13 217:6 239:10 240:21	Library [4] 1:2,15 9:16 23:15	looked [13] 43:14 52:19 56:11 57:16 61:18 82:22 98:4 100:14 191:5 192:5 200:24 202:13 236:15
joint [1] 28:3	known [2] 33:6 53:15	license [14] 29:14,14 85:18 100:16 134:10,11 135:2 166:4,4,25 197:25 198:1 252:23 253:3	looking [44] 7:25 10:18,25 39:6 43:15 45:5 56:7 61:9,24 65:17 70:4 81:18 83:7 85:20 86:21,23 87:18 91:3 92:18 98:18 103:8 110:11 111:4 113:4,24 114:16 115:8,9 119:5 124:9 136:11 151:25 180:13 183:6 192:11 195:19 196:8 206:10 214:14 217:11,23 225:14 233:13 246:8
Jonda [1] 32:8	Knupp [1] 2:14	licenses [2] 248:17 252:22	looks [3] 75:19 192:7 196:10
JUDGE [211] 4:3,15,21 5:1,5 6:4,12 22:25 23:17 24:3 27:2 37:5 38:11 39:13,16,21 40:14 44:8 46:11 47:2,20 48:1,9 49:18,22 51:15 52:6 53:5 57:23 58:6,14,20,23 62:14,25 68:2,6,21 69:6,9,11,18,21 71:14,19 73:23 75:9 81:1,6,9 86:7 87:11,16 90:14 93:2 95:13,16 96:8,11,24 97:3 98:6 99:17 112:19 113:14,16,22 115:11,14 116:3 118:2 121:16,21,25 122:7 123:23 124:13,19 130:3 131:2 136:9 137:5,14,21 138:19 139:12 140:18,22 141:22 142:11,17 143:13,15 144:14 145:7,13,19,24 146:2,10,15,16,23 147:10,15,16,20,23 148:2 150:19 151:3 152:18 154:5,15,18 155:2,5,11,15 158:23 159:4,10 165:1 168:17 169:2,24 171:18,24 172:10 176:19 177:6,9,13,16,24 182:1,5 187:13 188:4 189:12,18 191:20 195:12 196:3 197:11 198:24 199:7 200:8,19 201:9,16 202:1 204:4,5,8 205:10 207:14 208:23 209:9 214:22 215:8,17 216:2,22 217:5,9,13,25 218:9,15,19 219:14,25 220:2,15 238:1 244:20 245:12 246:2 247:1,15,18 248:10,24 249:14,18 250:2,15,20,24 251:8,13 252:5,14,19 253:9,13 254:7 255:6,11 257:19,22 260:23 261:5 262:1,4,8,12,19,22 263:1	KPMG [2] 48:21 154:22	limited [5] 111:11 113:4 224:16 225:1 229:15	loosely [1] 29:20
JUDGES [39] 1:1 5:18 7:1 9:12 11:4 18:1,16,22 25:4,11 26:2 29:6,25 30:24 34:22 36:23 42:8 48:15,25 49:1 52:21 56:1 60:24 80:16 81:5 93:16 119:23 120:4,11 128:20 141:14 159:17,23 161:14 170:18 172:3 182:7 183:25 192:12	KPMG's [1] 48:18	life [7] 21:15 26:10 111:17,21 112:6 113:13 114:23	Los [1] 2:6
Judges' [9] 5:11 9:14 22:22 24:8 34:19 35:5,14,18 243:18	L	Lifetime [2] 242:8,13	lot [9] 65:5 162:24 192:7,8 208:1 213:21 230:22 242:4,24
judgment [2] 67:22 189:2	lack [13] 65:14 66:24 70:20 95:9 99:5 184:21 198:11,15 208:23,25 214:21 234:9,10	likely [11] 21:11 25:6 26:16 140:9 215:12 224:19 228:14 240:6 241:13 246:22 247:9	lousy [1] 232:25
	laid [1] 85:11	limitation [3] 77:11 239:3,7	low [5] 59:6 110:6 112:25 113:1 121:22
	lapse [1] 143:16	limited [5] 111:11 113:4 224:16 225:1 229:15	lowest [2] 91:1 106:4
	large [13] 11:24 12:4 28:15 49:15 50:7 57:16 70:12 153:24,25 163:23 181:13 183:23 227:2	limits [1] 96:4	LUCY [2] 2:11 27:8
	larger [7] 13:12,18 63:8 69:3,6 181:19 247:9	linchpin [3] 74:12 100:21 131:5	lunch [1] 115:16
	largest [1] 27:19	Lindstrom [8] 32:10,17 34:5,8 35:6 262:21,22,25	LUTZKER [3] 2:20,21,21
	last [20] 5:12,12 9:6 11:5 30:1 34:2 48:2 49:19,21 182:9 213:14 218:7 234:2,19 238:6 244:2 247:6 253:18 254:10 261:8	Lindstrom's [1] 32:20	luxury [2] 185:1,3
	late [1] 196:5	line [12] 22:3,3 70:5 151:2 168:2,3,4,15 215:9,20 217:16 229:3	M
	later [4] 6:7 123:11 171:11 239:19	line-up [7] 45:9 101:15,21,23 137:2 167:19 168:7	machinery [1] 161:21
	latest [1] 72:9	line-ups [4] 102:16,17,20 104:3	MacLEAN [127] 3:3 4:11,12,16,24 5:3,5,8 6:5,10,13,15 23:5,23 24:4 27:3 38:4 40:14,15 46:13,14 47:6,24 48:11 49:25 51:10,17 52:2,10,
	latter [1] 230:13	lines [5] 140:8,16 142:8 204:22,23	
	laude [1] 160:3	lion's [1] 29:4	
	Laughter [8] 4:23 5:4 49:4,24 87:20 154:20,23 155:6	list [1] 146:1	
	Laura [4] 96:16 139:1 142:13 231:12	listed [2] 162:16 165:11	
	Law [2] 56:11 152:15	literally [3] 18:8 181:16 228:19	
	lay [2] 85:9 180:8	little [14] 20:22 41:11 69:16 73:25 75:13 82:8 123:19 124:9 129:6 138:16 152:7 189:14 212:13 230:11	
	Le [1] 2:5	live [5] 32:7 46:15 141:5,5,18	
	lead [3] 26:14,16 241:9	living [1] 20:16	
	leader [1] 34:12	LLP [4] 2:4,14,21 3:6	
	leading [1] 34:8	local [95] 9:24,25 11:1,6 14:5 18:3,19 19:8,16,22,24 20:14 21:6,7,7,7 26:14,15 28:12 33:3 35:1 49:11 53:15,17,24 54:18,18,24 55:4,10 57:2 61:2,7,19,25 62:4 63:9,13 64:2,9,11,16,21,22 65:1,8,19 66:5,17 67:11,16 68:15 74:8 78:16 83:21 100:21 101:1,5,9,16 102:15,21,25	
	leads [1] 74:17		
	leap [4] 26:13 44:3 220:10 241:21		
	least [12] 5:14 15:5 16:6 59:5 62:2 117:19 138:12 182:21 198:25 199:5 201:23 256:2		
	leave [1] 74:2		
	leaving [1] 98:13		

25 53:6,7 60:8 63:1 70:1 71:12 85:2,23 86:10 87:7,13 92:23 95:7 96:2,22 99:3,11 123:18 140:15 141:24 142:12 143:1 146:16,17 148:2,3,8 152:9,19 154:7,8,17 155:1,4,7 159:2,13 164:20 168:18,19 169:5,7,20 170:2 171:6 172:1,11,12 176:3 177:2,7,11,14,17 178:8 182:6 187:15,16 188:23 189:10 195:23 196:8 198:11,15 200:5,17 201:7 205:8 207:13 208:21,25 214:19 219:6 244:14 245:7,23 247:18,21 249:20,21 250:12,16 252:5,10,18 257:22,24 260:17,25 261:6 262:10 264:3,9,11,14,16,18	match [1] 63:19 matched [2] 71:2 77:9 material [1] 203:10 materials [3] 6:8 190:8 204:15 math [3] 68:23,25 69:17 mathematics [1] 49:8 Matter [18] 4:5 22:15 34:23 45:6,21 164:13 169:15 170:4 187:11 194:8,16,18 199:21 201:1 206:19 211:22 236:8 237:10 matters [11] 8:3 48:21 49:10,14 50:18 126:3 160:20 165:10 171:1 179:21 190:17 MATTHEW [1] 3:3 maximum [1] 105:23 Mayhue [2] 23:10 47:11 mean [54] 6:24 15:2 42:3 43:17 45:12 57:24 58:23 66:9,19 69:16 73:11 77:22 84:5,8 87:2 88:25 89:14,17 90:16 92:13,14 94:20 100:8 102:21 105:19 108:25 118:22 122:5 126:22 131:20 134:1,4 137:10 138:4 147:24 150:11 152:25 174:10,12 209:10 211:10 214:14 216:4 218:13 220:5,8,13 233:17 236:21,23 237:5 251:10 252:25 262:7 meaning [4] 62:2 89:18 129:19 252:21 meaningful [2] 173:2 228:22 means [7] 24:25 39:18 109:15 111:24 117:11 144:11 161:14 meant [1] 112:14 measurable [1] 225:23 measure [27] 9:11 10:15,16 18:6,6 31:23 53:9 54:1,17,24 55:10 69:25 105:11 106:13 107:13,18 130:15 149:8 173:20 174:21 175:15,16 177:19 180:13 239:22 245:21 254:21 measured [5] 88:5 131:18 158:8,15,15 measurement [33] 34:9 111:25 129:21 130:4,5 155:22,24 156:3,5,24 158:10,18 174:17 measurements [14] 40:19,22,25 77:17 78:6 132:14,21 133:22 156:19 181:4,4,5 224:16 244:8 measuring [1] 249:10 meat [1] 152:7 mechanism [1] 227:4 media [25] 8:24 34:10 66:21 160:11,22 162:13,13 163:12 164:21,22 168:21,22,23 174:24 176:4,6 185:24 187:1,9,18 244:15 245:10,25 247:25 249:25 Medicaid [1] 50:6 Medicare [1] 50:6 meet [1] 41:19 megalopolis [1] 186:24 member [4] 27:16,18,23 122:19 members [1] 183:1	memory [3] 81:23 205:14 206:13 mention [1] 190:7 mentioned [18] 32:6 47:10 58:6 105:5,6,6 119:21 126:9 179:4 180:23 181:9 185:10 186:12 195:8 206:18 212:18,21 238:24 mentions [2] 76:19 77:4 menu [5] 179:5,11,13,19,24 merged [1] 33:5 met [1] 165:6 meter [9] 11:22 14:6 35:9 54:19 55:14 62:16 228:18 258:14,15 metered [11] 13:9,11,15,16,23 14:6,9 55:21 181:3,8,18 meters [1] 55:20 method [3] 25:3 62:18,20 methodological [1] 254:23 methodologies [9] 38:15 39:2,11,23 40:2,7 42:22,24 231:13 methodology [51] 8:6,13,15,18 9:23 17:18 18:2 26:19 38:20,24 43:9 52:17,23 53:12,16 54:5,11,11 55:7,10,15 57:15 60:18,19 62:18 74:6,13 83:10,11,25 92:10,11 100:18 114:13 131:6,12,15 149:19 170:8 180:5,9,11 208:16 232:2,6 233:8,19 241:3,5 254:18 255:5 methods [1] 38:17 metric [6] 32:1 175:2,9,9 178:6 208:5 metrics [1] 227:24 MICHAEL [4] 3:4 84:20 192:24,25 middle [9] 193:15 219:18 221:15 244:22 246:11 248:21 253:20,20 might [47] 19:19 20:14 45:6 49:11 60:25 64:13 72:14 76:22 78:13 81:22 91:5 100:6 114:9 119:13 120:8,22 144:15 148:25 150:2,20,21,21,22 157:14 158:9,17 163:23 171:15,24 174:25 178:24,25 181:23 183:21 184:20,23 185:1 186:17,18 203:16 206:14,18 225:20 232:5 236:2 241:25 242:21 migration [1] 224:20 million [2] 221:24,24 mind [10] 20:10 154:19 159:22 178:19 180:6 203:14 208:17 226:11,23 227:1 minds [1] 135:15 minimal [5] 59:21 60:2 184:24 226:10 227:22 minimum [1] 257:10 Ministries [1] 47:12 minor [1] 224:23 minute [4] 192:1 193:19 199:25 243:17 minutes [2] 71:16 189:15 Miracles [1] 126:6 misleading [1] 103:21 missing [6] 23:22 56:19 59:14 61:10 109:22 188:20	mistake [1] 99:15 Mitchell [1] 2:14 model [10] 50:1 65:9 67:6,7 68:15 70:14 71:1,1 101:4 173:12 modeling [3] 49:17 50:2,25 models [2] 50:8 68:10 modern [1] 8:9 modest [1] 12:17 modicum [1] 242:6 modifications [1] 199:16 mom-and-pop [1] 161:7 moment [5] 34:18 84:16 123:25 251:5 252:12 momentary [1] 143:16 money [7] 93:17 230:5,6,7,8,14,24 month [28] 56:23 57:8,14,17,18,24,24 58:1,2,4 59:14 61:11 77:25 78:15 79:3 117:24 118:1,9 122:4 132:20,21 149:16,23 150:5 157:3,16,21,25 months [25] 18:24 19:4 56:19,22,24,25 57:12,13 58:2,5,13,15,16,18 59:19 60:19 76:21,23 78:2,3 123:11 130:11,17,24 182:12 moreover [3] 181:22 186:12 203:5 morning [10] 4:3 27:8 48:2,12,13,16 71:24 72:2 262:20 263:2 mosaic [1] 188:20 most [19] 20:20 21:5 25:25 55:18 57:19 58:10 126:18 162:23 163:19 172:6,14,19 179:19 186:13 194:19 222:20 239:11 245:1,20 Motion [2] 27:14,16 motivated [1] 136:23 motivates [1] 166:24 motivations [2] 167:4 171:3 mountain [1] 216:6 mouse [2] 25:10,12 mouth [2] 120:1 204:21 move [25] 46:15,24 47:7 64:3,12,15 95:15 96:16 140:5,13 145:21,23 146:4 188:22 219:1 222:11 243:22 244:13 245:5,22 246:24 247:13 248:20 250:11 254:4 moved [1] 251:1 movie [2] 186:6 188:3 movies [3] 27:25 243:15 246:17 moving [2] 213:21 253:19 MPAA [36] 2:9 4:25 13:22 27:6,12,13,18,20,22 28:3,5,9,14,24 30:16 31:21 32:6,15,22 33:11,13,24,25 35:5,17,21 36:20 39:1 43:15 62:21 180:24 237:10 238:25 239:7 258:8,12 MPAA's [6] 18:22 33:20 34:3 35:25 36:8 62:23 MPAA-represented [1] 29:3 Ms [18] 21:24 22:4 26:7 27:4,7 32:8 34:5 37:6 46:17 47:1 82:23 96:1 168:24 210:7,15 262:21,24 264:4 much [23] 12:17 13:13 27:21 107:
--	--	--	---

20 136:16 138:14 140:13 159:11 160:13 174:24 178:6 179:18 180: 2,2 181:14,15,19 183:5 184:12,16 186:1 228:5 235:6 multi-channel [2] 210:22 211:7 multi-stream [1] 230:22 multiple [13] 14:11 56:9 114:2 118: 7 130:19 148:25 163:20 231:8 238:9 258:22,24 260:18,18 multiplication [1] 68:20 multiplying [1] 175:3 multitude [1] 249:6 must [3] 136:13 253:3 254:18 myself [2] 38:13 93:5	32:10,16,17,21 33:3,5 35:9 53:16 54:15,16 55:3,11 56:9 59:1 60:4 61:10 62:9,16 78:8,17,23 79:1 82: 11 83:4,5,13,13 102:8 106:7 108: 7 109:18 112:25 113:7,17 117:14, 20 120:5,15 121:23 122:2,11 127: 9 128:6 130:7 136:21 149:18,21 157:15 158:5 173:23 174:1 178: 18 182:20,22 183:15 186:21 193: 17 225:23 226:17,20 227:4,25 228:7,8,16 229:8,10 236:7,19 237: 3,4,13,14,23 238:10,11,23 239:1 241:7 244:9 245:17,18 254:20 258:18,20,24 259:6 Nielsen's [1] 224:16 night [1] 179:7 Non [1] 109:12 non-arbitrary [1] 24:12 non-team [1] 28:1 non-usefulness [1] 200:14 non-zero [3] 111:16 117:25 150: 13 None [2] 257:21 264:22 Nonetheless [1] 240:3 nor [1] 234:5 normal [1] 75:2 normally [1] 38:5 north [1] 163:17 note [2] 128:4 255:13 notes [1] 266:5 Nothing [12] 46:9 136:22 147:22 150:7,14 155:11 158:22 168:10 209:23 241:9 252:18 257:18 notice [10] 36:20 124:14,17,20 219: 2,3,5 220:3,6,16 notion [2] 91:18 193:24 number [7] 10:2,21 15:24 16:14 19:5 28:17 40:25 52:8 65:6 68:18 75:10 79:5,13,18 81:24 96:25 103: 17 106:6 107:15,18 110:13,16 111:12 112:6 113:1,4,7 117:22,25 118:3 127:1 130:15,19 132:8 133: 7,23 139:10 148:12,14,14,16,19, 20 149:6,16 153:2,19 154:4,18 157:20 163:16,21 169:25 175:1,3, 4,7 182:19 203:2 204:5 224:1,10 225:4 231:18 238:2 255:22 256:1, 9,13 259:14 265:2 Numbered [1] 147:12 numbers [17] 23:20 43:16 47:4,22 75:13 109:24 114:17 118:24 146: 25 179:1,15 195:21 214:15 218: 12 222:4,7 228:22 numeral [1] 249:2 numerator [2] 106:14 107:18 numerous [1] 235:21 NYMAN [1] 3:5	4 175:22 261:18 objecting [1] 249:16 Object [56] 38:4,6,9 46:25 47:1, 18,19 51:13,14 52:4,5 85:2 87:8 92:23 95:7 96:2,8,22 97:23 99:3,7 123:18,22 140:15,16,17,23 146:17, 21 147:17 169:22,23 170:25 177: 23 187:8,24 195:23 197:2 198:11, 22 200:5,17 201:7,9 205:8 207:13 208:21 209:4,8 214:19 216:12 218:1 219:6,9 260:12 objectionable [1] 98:7 Objections [3] 38:11 86:8 140:8,9 171:7,9 objective [1] 31:23 obscure [2] 28:21 184:23 observation [3] 80:3,6 83:2 84:2 150:3,4 observations [9] 76:15 77:2 130: 7,20 133:8 148:12,21 150:8,11 observing [1] 117:10 obtain [3] 7:14 54:1 238:8 obtained [3] 236:19,22 237:4 obvious [3] 183:21 206:4,5 obviously [15] 38:23 64:11 72:9 81:14 83:17 93:16 108:24 125:11 131:10 134:12 148:24 220:23 230: 21 231:1,19 occasion [1] 25:14 October [3] 123:11,15,21 odd [1] 133:17 offer [5] 51:10 52:2 145:17 164:20 169:20 178:24 261:23 offered [7] 38:15 101:24 168:20, 21 169:4 214:21 252:7 offering [4] 33:19 53:1 167:19 171: 8 Office [2] 244:10 255:18 offices [2] 23:14 48:22 official [4] 124:13 220:3,6,15 officially [1] 124:16 often [9] 4:20 130:22 175:3 178:24 184:21 185:11 186:21 188:10 203: 5 oftentimes [1] 45:20 okay [14] 25:3 43:21 69:11 71:12 72:11,15,24 73:4,13,19 74:11,20 75:8,21 76:4,25 79:22 80:17 81: 14,21 82:22 84:1,15 87:4,25 89:1 92:13,17 95:1 98:18 100:2,12 101: 7 102:10,14 103:10 104:2,19 106: 12 108:11,22 109:16 110:15,22,25 111:22 112:12 115:14 117:3,15 118:12 119:2,12,20 121:10,15 123:8 126:25 127:23 128:4,18,23 129:24 130:2 131:2,24 132:7 133: 11,21 136:6 139:16,24 140:3 145: 1,12 147:20 148:2 151:11 155:9 156:7,12 164:19 165:12,23 166: 21 167:9 172:11 174:15 177:6 190:7,19,23 191:5,14 192:8,21	193:2,9 194:4 195:8 201:19 202:8, 15 203:15,20 205:1,5 207:7,20 211:3,25 212:22 213:13 214:14 216:2 217:13,15 218:14,19 221: 19 222:11 223:9 228:11 229:19 232:1,18 235:2,12 236:7 237:2 240:18,23 245:15 249:18 253:1 255:25 256:11 257:7 262:8,14 263:1 OLANIRAN [27] 2:10 27:10 38:9 47:19 51:14 52:5 97:23 99:7 140: 17 143:14,14,15,18,22 145:1 146: 21 147:18,19 148:1 169:23 197:1 198:22 216:12,23 218:2 219:8 257:21 Olaniran's [1] 217:25 old [4] 15:20 40:20 143:17 242:3 older [2] 61:16 103:23 once [4] 43:1 64:15 90:9 114:10 179:16 one [145] 11:8,15,16 15:20 16:21 20:2,17 21:10,21 22:9 23:11 32:4 34:2,8 38:3 40:3 42:9 44:15 45:22 49:3,21 50:23 53:14 56:16,23 58: 4 62:21 63:18,25 64:1,18 65:19, 24 70:9 72:25 73:3 74:5 77:24 78: 4 80:9,10,16 81:3,5,7 82:2 84:16 86:13 88:13 89:21 94:13 100:3 102:10 104:22,24 108:4 109:25 111:2 112:1,7,11,18,19,20 113:10 114:6,24 117:19 118:5,25 119:13 122:18 123:25 126:21 132:1,1,20, 21 142:18 147:11,17 148:10,20 149:16 150:2,22 151:25 155:3,22 156:4,19 157:7,9,24 160:12 162:2, 3 163:21 166:25 167:25 170:10 172:19,20 179:9 181:13 183:1 185:5,21 186:2 188:13,13 191:3 193:1 194:1 198:14 201:22 202: 20 203:6,13 213:12 214:12 216: 25 218:6 222:19,20 224:15 225: 20 228:11 237:2 238:5 239:19 240:21 241:10,15 242:20 243:17 244:23 245:8 246:5,12 259:18 260:2,5 261:10,22 one-page [1] 60:16 ones [10] 38:3 59:5 60:22 63:20 98: 23 104:15,16 150:25 226:14,15 only [69] 7:15 8:13 11:8,14 15:1,2, 5,11 16:25 17:11,22 18:11 20:23, 23 22:16 23:17 27:23 31:3 40:6, 21 41:1,2,5 45:13,13 56:2,18,23 59:18 60:10,16 61:13,17,24 63:7, 20 76:19 77:5 104:15 108:4 109: 25 113:4 114:24 117:4 118:25 126:5,5 129:15 130:24 132:13 134:2 141:15 142:19 144:5,10,11, 12 150:13 155:22 166:1,13 182: 10 184:23 196:20,24 204:10 216: 13 257:9 262:23 onward [1] 66:9
--	--	---	---

<p>open [1] 68:3 opened [1] 262:2 OPENING [8] 5:6,19 27:5 37:3,8 38:6 47:10 264:2 operating [2] 153:20 233:16 operator [27] 9:8 46:18 89:9 91:6 93:10,21 99:22 100:3,10 165:15, 18 166:25 167:12 168:8 171:3 175:14 176:16 177:22 188:3 210: 16 211:2,4,6 235:15,16 247:11 248:16 operators [21] 20:19 28:12 37:20 44:18 88:10 90:3,25 94:7 100:13 164:4 165:19,21 168:13,13 169:1 176:7,8 202:23 203:3 229:20 246: 13 opining [1] 176:19 opinion [18] 67:20 134:5,21 152: 16 192:13 200:14 205:5 207:4 209:6 210:7 226:9 244:8,18,25 245:1,8,24 261:25 opinions [1] 213:1 opponent's [1] 141:10 opportunity [5] 81:12 143:19,21 171:11 189:13 opposed [4] 69:13 89:11 223:16 232:12 opposing [1] 144:3 opposite [1] 215:7 option [1] 179:10 options [2] 39:8 179:23 oral [8] 144:6 145:4 146:14 203:17, 22 261:1 orally [1] 142:15 order [10] 7:6,13 20:18 34:19,22 35:7,15 61:1 73:10 132:9 143:24 144:1 153:13 161:24 168:14 199: 24 231:4,5 Oregon [1] 181:11 organization [2] 27:15 55:3 organizations [1] 34:7 original [11] 18:11 52:16,22 56:8 58:11 61:12,13 62:22 72:8 77:12 182:8 originally [1] 57:1 other [79] 15:15 17:25 18:15,23 20: 17,18 21:2 27:25 33:17 34:10 38: 16 39:8 42:19 43:13,17,18 54:6 58:4 63:24 65:19,25 77:14 90:6, 11 92:1 94:22 95:4 100:12,13 102: 11 114:24 118:17 120:21 122:17, 18 125:24 126:21 128:10 134:24 135:9 140:5,6 142:16 146:20 148: 23 150:17 153:6,11 161:1 170:12 179:16 185:2 190:7 203:7,8 205:1 210:24 218:7,22 221:21 223:9 225:15 230:25 237:3 239:23 241: 10 246:6,16 250:13 253:3 256:11, 22 258:5 259:16 261:23 others [1] 82:1 Otherwise [4] 24:20 147:6 156:23</p>	<p>165:24 out [31] 4:18 15:5 16:9,11 21:14 38: 22 43:11 56:14,25 74:1 81:11 85: 21 90:18 98:13 103:19 104:1,11 111:4 124:2,11 126:10 129:15 144:16 150:12 182:25 192:14 224: 3 225:3 227:13 240:24 248:3 out-of-market [1] 238:8 outcome [1] 8:5 outlined [1] 23:2 outset [3] 172:6,14 256:25 outside [8] 28:11 38:8 71:16 97: 19 176:13 226:17 over [61] 5:12 12:2 16:18,18 19:12, 17 27:9 57:21 59:13 63:23 64:4, 10,12 65:15 66:23 71:8 77:11 78: 1,3 91:16 117:23 118:7,9 122:5 129:19 130:6,9,10,17,25,25 131:1, 23 132:24 133:7,16 139:8 149:17 156:10 157:15 163:15,25 167:1,2, 5,7 168:1 174:11,12 183:6 213:13 216:11 235:21 236:18 242:22,22 243:10,10,15,16 252:15 overall [3] 221:1 223:8 236:3 overlap [1] 138:7 overlapping [1] 150:23 151:15 overruled [5] 38:12 95:13 176:22 188:4 207:14 209:9,14 216:2 244: 21 245:13 246:2,10 261:5 262:5,8 overview [1] 159:25 own [11] 12:9 34:13 86:3 110:4 142:6 144:12 163:5 219:13 230: 19 240:25 243:3 owners [1] 134:15</p> <p style="text-align: center;">P</p> <p>p.m [5] 115:16 116:2 149:4 189:17 263:3 page [74] 17:5 26:22 67:17 68:4,6, 9 74:25 75:15,22 76:5,6,7,9 79:24 81:24 82:6,9,23 84:23 85:1 87:6, 14 105:2 111:15 122:21 127:24 128:5 151:6,7 188:24 189:5,25 193:10,14,15 195:21 197:16 204: 17,24 206:20,22 219:16,17,19 220: 20,21,21 221:7,14,16 222:11,13 223:1,3 224:5,10 228:24 229:6,13 238:2,4 243:19 244:3 245:16 248: 20,21 249:2,3 250:4 253:19 254: 11 255:2,4 264:2 pages [22] 15:24 16:2 22:3 57:5 68:3 74:1 76:6,17 77:2 81:25 87: 19 109:23 110:2 111:14 157:12 183:3 190:16 195:17 196:6 197:9 219:20 223:12 paid [1] 249:5 panel [1] 95:21 paper [2] 214:24 217:11 papers [3] 23:8 32:8 47:17 paradigm [1] 175:18 paragraph [35] 75:22 76:1,8,9 79:</p>	<p>25 82:9,12,14 88:1 120:21 193:16 206:22 207:1 219:12,14,17 221: 15 222:8 238:4,6 244:3,23 245:16 246:5 248:5,7,8,21 253:21,21 254: 13 255:3,5,7,10 paragraphs [2] 87:22 262:5 parallels [1] 256:2 Pardon [1] 81:10 parentheses [4] 68:12 69:2,7 70: 15 part [38] 5:14 21:5 39:4 46:22 62: 21 84:21 95:20 97:10,14 98:1 99: 10 100:22 108:14 110:9 122:11 143:5,7,10 167:24 186:23,24 196: 15,15,16 197:7 225:6,12 228:15 230:20 232:20,22 233:7 235:8 249:1,13,15 256:21 261:8 partial [1] 244:3 participant [5] 9:8 13:1 194:22 238:11 258:19 participants [9] 7:12,22 12:24 13: 8 22:10 24:16,21 26:7 187:1 participated [2] 182:17 206:12 participating [1] 7:17 particular [36] 38:7 45:9 56:5 82:2 84:23 89:11 107:22 110:8,17 111: 5,6 114:4 135:2,3 137:22 144:13 145:2 156:13,15 158:11,18 166:6 168:5,7 171:9 179:19 183:24 184: 6 190:20 211:5 236:17 240:7 242: 1 248:5 251:2,21 particularly [15] 7:5 9:2 11:6,7 21: 5 22:16 40:10 41:24 176:6 181:18, 23 185:17 192:10 230:13 235:3 parties [12] 23:9,13 26:25 31:21 47:16 122:24 123:10 141:6 144:3 179:8 243:20 250:8 parts [4] 74:6 213:21 256:22 261: 24 party [6] 27:20 33:18 232:8,19 233: 6,11 pass [1] 162:3 passage [1] 82:19 passing [1] 81:11 past [21] 22:6 25:4,13,15 37:16,17 38:18 39:3 41:12 44:13,16 80:9, 10 92:15 192:3 198:10 199:11 200:12 217:18 231:10 259:17 path [1] 77:14 pattern [1] 152:1 patterns [1] 138:3 Paul [1] 32:9 pay [22] 4:25 37:24 85:18 90:8 91: 8,21 99:24 100:15 134:10,11 166: 4 243:3,13 249:9 251:20 252:23 253:3,14,17 254:17 256:7 257:10 payback [1] 249:10 paying [1] 256:24 pays [1] 253:7 Pecaro [3] 159:21 160:13,18 pending [1] 128:19</p>	<p>Pennsylvania [2] 49:6 160:4 people [17] 8:4 21:3,3 30:22 31:2, 5,10 35:9 40:22 42:19 162:19 180: 1 213:1 228:21 231:18 240:6 258: 14 per [11] 10:9,20 18:9 129:23 133:1, 10 174:6,10,11 175:2,8 perceive [1] 228:6 percent [49] 16:21 35:25 36:1,2,3, 3,4,8,9,10,11,12,13,14,15,16,17 57:11,18,19 58:7,11 59:5 60:4 69: 23,24 78:15 79:4,4 103:3,4 106:5 107:11 111:22,25 112:4,10,24 119:14,14 125:9 157:7 158:1 179: 14 183:8 221:10 222:21 224:4 257:14 percentage [5] 107:20 221:17,18 257:7,11 percentages [2] 36:5 222:5 perennially [1] 175:10 perfect [3] 62:12 124:22,23 perfectly [1] 244:17 performance [1] 183:23 performed [5] 35:8 113:18 182:15 234:4,20 performing [1] 113:17 performs [1] 186:9 perhaps [9] 44:3 191:25 204:19 206:13 207:3 210:11 214:3 227: 10 232:24 period [17] 15:6 16:19,19,22 19:18, 20 35:3 66:6,8 183:2,4,6,17 184: 18 213:14 236:18 261:25 periods [4] 12:3 16:3,6 149:1 permissible [1] 147:5 permissive [1] 85:18 permitted [3] 154:3 252:11 261:19 person [3] 89:23 92:18 228:20 personally [2] 23:7 163:13 perspective [4] 14:4 20:13 45:4 207:25 perspectives [1] 186:2 persuasive [1] 207:24 pertinent [1] 185:19 Peter [2] 23:13 47:8 Ph.D [2] 34:11 49:6 Phase [53] 8:14,14 9:18,18,19 30:1 31:14 44:19,20,21,22 45:22,24 46: 6 81:7,7,8 86:17 88:9,9,10,17,24 89:5,8 91:10,12,23,24,25 92:16 93:13,16,23,23,25 94:3 124:5 138: 15 164:11 178:10,14,16,17,22 190: 9,20,24 191:3,17 194:11 214:3 250:7 phone [1] 154:4 phrase [2] 109:9,10 Pick [4] 2:4 92:10,10 228:19 picked [3] 46:3 125:16 127:14 Picture [2] 27:14,17 pieces [1] 188:20 Pillsbury [3] 3:6 47:8 56:11</p>
---	---	--	--

Distributions of the 2004-2009 and 1999-2009 Cable Royalty Funds

April 9, 2018

Docket Nos. 2012-6 CRB CD (2004-2009) (Phase II) and 2012-7 CRB SD (1999-2009) (Phase II)

Pillsbury's [1] 23:14 Pittman [2] 3:6 47:9 place [8] 20:1 73:6 91:17 121:8 185:13 234:14 241:18 259:11 places [1] 43:18 planned [1] 262:23 play [3] 188:17 201:4 236:2 playing [1] 233:25 Please [26] 4:3 5:20 48:3,9,14,24 51:18 52:11 67:17 68:5 71:19 79: 23 84:18 87:5 89:15 116:3 138:23 151:12 159:5,10,16 172:13 189: 18 209:16 221:12 238:2 plethora [1] 167:21 PLOVNICK [9] 2:11 27:4,7,9 37:6 47:1 262:21,24 264:4 plus [1] 184:16 point [48] 4:18 8:1 9:25 13:2 16:1, 1 29:21 21:14 22:18 25:15,25 26: 1 29:21 34:2 38:22 41:15 43:11 64:18 74:4,17 85:21 89:8 95:15 98:16 105:16 121:7 129:4 134:5 143:8 145:6 152:12 181:19 188:6 193:8 194:1 202:20 203:14 211:5, 15,24 214:11 216:22 231:7 234: 12 238:2,15 241:8 248:3 pointing [1] 145:2 points [4] 98:22 129:4 188:18 228: 6 popular [4] 26:15,17 28:21 179:20 popularity [3] 181:24 254:19,22 population [1] 107:21 portion [8] 97:13 98:13 99:9,12 106:17 196:24 211:22 229:20 portions [2] 246:6 249:19 posed [1] 144:19 position [2] 44:14 98:20 positions [2] 128:24 141:7 positive [12] 63:15 64:20 118:3 155:22,24 156:3,5,24 158:9,10,16, 17 possibility [1] 241:20 Possible [8] 79:21 140:12 153:13 158:20 208:9 228:14 241:24 242: 4 possibly [3] 182:20 185:19 190:15 Post-it [1] 193:11 postulating [1] 106:16 potential [5] 151:22 175:16 176: 17 177:19 246:15 potentially [2] 23:4 142:9 power [2] 94:9 152:5 practical [1] 249:7 practice [8] 34:12 48:19 106:1 141:25 162:6 163:5 practices [3] 20:6 254:14,16 precise [4] 65:3,4 103:6 151:18 precisely [1] 260:19 predecessors [2] 37:19 95:21 predict [8] 6:25 8:5 10:11 65:3 101:1,3 103:5 215:25 predictability [1] 240:10 predicted [2] 67:4 103:14 predicting [4] 67:7,8 103:13,22 predominantly [8] 14:15 17:20 26:17 61:3 246:20 255:21 preface [1] 5:9 prefer [1] 171:10 preferable [2] 134:3 236:12 preference [1] 69:15 preferences [1] 102:5 premise [5] 74:12 85:14,16 95:8, 12 premised [3] 248:12,13,14 premises [1] 74:6 preparation [4] 72:24 76:11 96:21 239:9 prepare [1] 33:15 prepared [4] 32:22 123:14 164:1 212:22 preparing [6] 73:9 98:19,20 139: 17,25 190:1 PRESENT [13] 3:11 30:17 38:18 39:7 60:21 63:12 68:25 69:1 80: 24 81:4 85:25 145:5 197:23 presentation [3] 30:6 40:21 182:9 presented [9] 9:23 17:9 22:7 25: 18 38:25 39:24 42:22,24 147:1 presenting [4] 32:6 63:11 68:16 86:4 presently [3] 40:2 128:19 198:17 press [1] 203:9 pressure [1] 214:5 presumably [1] 109:2 presume [1] 232:1 presumption [3] 106:21 107:2 134:25 previous [7] 73:2,6 95:25 127:18 140:8 141:4 156:14 previously [7] 42:15 96:5 144:2 145:11 152:3 164:7 212:17 price [2] 29:21 162:20 pricing [1] 249:7 primarily [7] 5:10 13:18 40:3 166: 7 181:5 242:20 256:13 primary [9] 37:14 80:3 82:24 84: 10 160:21 161:15 194:18 228:25 229:11 principal [2] 159:19 254:2 principally [1] 6:19 principle [1] 29:18 print [1] 82:16 prior [20] 42:9 85:20 93:1 141:9 143:23 144:1,9 145:3,4,7,8 146: 11,11 147:11 152:16 165:14 195: 9 209:3 212:6 225:18 privilege [1] 113:5 probability [1] 225:21 probably [8] 27:19 140:7,9 171:17 179:22 186:4 228:19 236:11 problem [17] 7:2 40:6,7 41:6 42:7, 21,23 43:1,7,8 117:4,5 118:25 119:4 120:22 131:13 135:16 problems [3] 21:15,18 40:1 procedures [2] 176:10 254:24 proceeding [103] 5:13,18 8:7 11:5 13:10 14:1 15:6 16:5 17:12,16 20: 21 26:21 27:13,21 28:7 29:8,17 30:9,13 31:15 32:1,7,23 33:12,19 34:17,20 36:22 38:8,23,24 50:13, 14,16,17 51:22 52:13,16,22 53:3,8 54:9 55:25 56:8 61:16 62:22 72:5, 8,13,25 73:3,5,6,9,11,15 76:12 84: 21 86:17 92:1 93:1 94:24 122:23, 24 128:14,15,16,20,25 137:7 142: 14 164:10 165:7,8,8 166:5 170:20 180:10,20 182:10 189:8 190:4 191:7 197:19 200:7 203:16 205: 25 206:7,11 209:2,3,6 212:11,13, 18 213:2 232:11 233:12 234:3,19 244:7 261:2 266:6 proceedings [33] 6:21 7:7,17 8: 15 9:18 11:21 18:23 30:2 37:15 50:11 72:4 80:9,11 95:20 97:8 98: 14 131:25 139:3,8 141:4 146:12 172:5 175:11 214:12 225:19 231: 8 232:19,20 233:7 238:13 241:10 258:9 259:17 process [20] 10:14 23:1,7 25:2 32: 12 43:19 73:8 91:11,13 100:22 111:3,15 122:11 134:13 163:3 226:20 251:17,19,22 260:14 processes [1] 93:15 procured [2] 32:13 33:3 produce [2] 112:25 226:8 produced [3] 32:17 55:3 62:21 producer [1] 188:3 Producers [6] 2:2 9:16 27:24 37:9 72:1 170:13 product [4] 12:6,11 13:4 186:10 production [1] 62:24 profession [1] 161:17 professional [8] 8:22 34:4,15 162: 5 189:3 247:24 professionalism [1] 34:16 professionals [2] 21:12 161:17 professor [1] 51:4 proffered [1] 231:11 Profile [1] 174:2 profit-maximizing [1] 135:16 Program [100] 2:9 13:21 14:3,10, 18 20:25 26:15,16 27:6,12 28:2,5, 8 29:5,9 31:16,22 33:8 35:24 36:5, 19,24 37:1 53:18,23,25 57:10 58: 9 64:13 65:7,18 77:25 78:4,10,13 88:22 89:11,21 94:23,24 101:15 103:3,15 105:23 106:19 107:22 109:25 112:7,11,20 113:11 114:4, 20,24 117:10,16 119:13 129:14,16, 21 130:11,21,23 134:23,24 135:20 137:8,16,23 147:25 148:24 149: 15,21 150:22 151:19 155:20 156: 13,16 168:5,7 175:5,19 183:24 186:5 208:6 225:7,15,20 227:21 229:12 231:18,20 232:25 240:11, 11 241:15 242:22 247:7,8 257:19 program's [2] 14:8 254:22 program-by-program [1] 259:24 programmer [1] 168:5 programmers [1] 104:23 programming [69] 9:21 10:2,4 11: 18,21 12:7 14:15 15:15,25 16:11 20:22,24 28:22,23 29:1,4,13 31: 19 55:2 93:18,18 101:15 102:20 104:3 107:12,17 111:6 126:4 134: 15 135:18 166:9 167:19 168:15 169:1 170:10 172:5,25 175:12 178:3,13,20,21 181:25 182:11 186:11 200:3 208:11 211:8,18 215:25 221:9 224:17 229:1 234:5, 22 242:12 243:8,11 245:11 246:1, 14,17,19 248:1 250:1,7 254:20 255:1 259:24 programs [103] 8:19,25 9:10 14: 12,21,22 15:3 21:5,8 28:1,10,19 29:3 30:25 31:6,11 37:23 45:10, 11,15 53:11 57:20 59:3 63:19 65: 12 67:25 71:2,3 79:14,14 89:6,7, 18 93:20 94:12 95:5 109:21 110:5 111:12 113:3,5 114:7,8 125:3,13, 24 126:12 129:8 130:1 135:3,3 136:23 137:2,3,3,17 138:18 150: 23,24 151:22 153:3,18,21 163:9 164:2,23 168:23 173:25 174:19 180:14 201:6 208:11 220:25 221: 22 223:14,19 224:1,3,11,21,23 225:13,25 226:13 227:6,7 228:12 239:24 240:4,7,20 241:4,6 242:1 244:16 245:1 246:18 249:9 250: 10 253:16 257:25 258:4 259:25 project [7] 10:9 11:2 13:3 14:5 163:16,21 236:14 projection [2] 14:17,20 projections [1] 12:9 projects [7] 8:24 49:14 50:3 160: 17 161:2 162:17 167:8 promotional [2] 203:9,10 proper [3] 29:7 142:9 146:19 properly [2] 144:2,22 proportional [2] 210:12 256:20 proportionately [1] 247:12 propose [4] 8:6 63:17 124:7 126: 16 proposed [8] 39:12,24 52:24 60:6, 9 126:15 180:6,9 proposes [1] 35:21 proposing [1] 55:7 proposition [1] 218:4 protocols [3] 226:17 228:8,23 proven [1] 25:13 provide [10] 24:24 50:21 54:17 122:14 174:7 237:14,23 238:11, 20,23 provided [8] 33:15 35:10 47:13 52:	
---	--

Heritage Reporting Corporation
(202) 628-4888

<p>20 174:17 184:8 197:4 238:17 providers [2] 27:19 210:23 provides [4] 31:22 53:21 55:4 181:14 provision [1] 145:2 provisions [1] 171:2 proxy [1] 137:8 public [5] 124:11,11 220:5,8 241:25 publications [1] 50:20 publicly [1] 163:1 published [3] 50:18 80:20 174:3 purchase [4] 91:21 162:20 239:13 241:2 purchased [2] 237:5 239:14 pure [1] 179:1 purely [1] 83:12 purports [1] 220:7 purpose [8] 10:5 12:15,16,17 144:7 187:22 190:13 214:22 purposes [8] 107:5 142:2,4,20 156:21 185:21 197:23 258:13 pursuing [1] 83:10 put [15] 40:22 46:15 69:12,19 70:10 73:22 78:8 107:8 119:25 143:9 152:7 155:5 156:24 204:20 238:5 puts [1] 176:16 putting [1] 69:13</p> <hr/> <p style="text-align: center;">Q</p> <p>qualifications [2] 51:5 164:14 qualified [7] 51:16 169:3 176:11 244:15 248:2 249:24 260:15 qualify [1] 23:19 qualifying [1] 252:8 quarter [8] 174:4,6,10,11 183:22,22 quarter-hour [2] 119:9 121:13 quarters [3] 174:11 183:9,16 question [76] 30:10,16 32:3 46:8 53:14 54:12 68:2 80:13,14 87:12,13 88:24,25 89:1,13 91:15 93:6 95:8,23 97:25 98:6,9 99:16,18 100:7 102:7 107:1 111:6 118:14 124:2 129:7,20 139:5,6,23 142:18 144:20 150:18,20,24 151:15 152:14 158:12 175:10 176:24 177:12,18 183:6,9 187:12,14 188:5 197:12,21 199:14 202:4 209:16,19 212:12 213:22,24 215:1,17,18,19 217:19,21 218:16 222:6 233:3 253:11 259:20,23 261:3,4,9 questioning [5] 100:20 151:3 215:9,20 217:16 questions [33] 5:12,16,20 6:6,7 22:22 26:10 30:7 33:22,25 35:19 46:19 59:18 71:13 73:12 98:17 124:25 148:11 155:10,14 189:10 191:16 196:20 197:8,9 204:10 216:3 217:10 258:7 259:14 260:18 262:11,13</p>	<p>quick [2] 140:11 148:10 quickly [3] 148:3 174:9 255:15 quite [3] 7:16 16:8 238:16 quotation [2] 82:15 198:3 quote [4] 22:2 193:20 194:2 199:19</p> <hr/> <p style="text-align: center;">R</p> <p>R-4 [2] 127:21,22 R-7 [14] 55:6 56:17,18 59:4,24 60:15,22 109:21 121:2 122:19 127:24 128:5 157:3,9 R-7s [2] 112:23 117:10 raise [3] 38:6 48:3 159:5 raised [14] 11:4 18:2,16 34:1 56:1 60:24 61:1 95:25 150:19 170:19 175:11 182:7 183:25 214:25 raising [3] 46:20 158:3 215:1 random [2] 32:25 181:21 range [3] 16:5 161:5 162:18 ranging [1] 249:7 ranked [1] 157:4 rare [3] 16:20 59:2,3 rarely [1] 188:7 rated [10] 57:10,11,20 58:10,12,23 126:13 129:13,14 157:4 rather [9] 12:10 62:16 89:16 115:5 147:12 171:10 181:7 237:13 246:10 rating [53] 53:15 55:10,22 57:2,14,17 59:6 60:4 61:11 63:9 65:8,10 67:5,11 68:15 76:24 78:14,16 103:3,4,6,7,13,14 105:17,18,21,22 106:13,22 107:3,4,13,17 109:22 110:5 112:6,24 114:20,22 115:4 116:20,20 117:20 122:4 130:14 132:9 156:19 157:6 225:19 227:25 228:13 232:25 ratings [115] 9:25 14:8 16:17 21:21 31:12 33:4 35:1 37:22 42:17 43:19 44:1,4,6 53:17,24 54:15,17,19 55:4 57:21 61:19,25 63:13,14 64:2,3,7,9,11,12,13,16,21,23 65:1,5 66:5,23 67:16 74:9 83:13,13,21 84:9,14 89:10 91:7,19 92:6 93:10,22 94:25 95:3,4 99:23 100:14,21 101:1,5,9,10 102:8,9,19,21,22,25 103:22 104:8 107:10 110:6 115:2 127:4,5,7,12,13,23 128:1,9 130:10 131:7 134:19 136:7 149:15 173:23 178:18 179:14 180:2 195:1 197:22 198:5 200:1,15 201:4,13 202:24 210:13 221:10 228:25 232:4,12,15,15,23 236:10 240:19,25 245:17,18 258:2,3,3 260:7 261:14 ratio [2] 157:22 222:25 rational [1] 91:23 rationale [1] 44:24 rationality [1] 188:16 RAUL [4] 3:12 73:15 99:9,11 raw [3] 13:2 78:20,22</p>	<p>RDPs [2] 11:17 54:14 reach [3] 81:10 182:25 194:22 reached [1] 56:14 reaches [1] 125:8 read [42] 70:10 72:22 73:16 75:14 76:1,2,3,10 79:24 80:15 81:15 82:14 84:23 87:25 143:25 191:23 193:1,19,22 194:12,17 198:19 203:16 205:18 206:23 207:1 208:1 209:18 211:23 229:3 231:9 244:5,25 247:8 248:22 249:12 254:14 255:5,6,8 259:19 261:8 reading [9] 82:20 93:5 193:7 203:13 206:25 207:2 237:9 260:24,25 reads [4] 245:18 246:12 248:8 253:24 real [3] 10:18 24:20 175:6 real-life [7] 7:11 12:24 24:16 reality [1] 93:13 realize [5] 7:6 140:7 166:1 192:9 246:10 realizing [1] 188:17 really [18] 11:18 13:13 15:1 22:14 25:2,17,24 41:19 83:6 93:8 102:10 121:5 181:22 195:4 211:17 213:24 223:7 233:1 realm [1] 162:13 reason [26] 13:14 21:2 45:12,17 46:5 60:14 61:17 66:14,21 101:8 131:21 172:20 181:6 199:12 213:9 226:3,24,25 227:1,2,9 228:15 237:6 243:7 252:7 258:1 reasonable [8] 7:2,21 24:10 25:21 26:24 67:23 109:3 189:6 reasonably [2] 244:4,6 reasons [3] 13:11 38:1 144:23 203:1 228:11 244:24 246:6,12 rebroadcast [2] 45:6 125:14 rebuttal [20] 33:18 53:2 72:11,18 73:13 139:9,17,19,25 142:24 143:3,5,7,9,11 190:3 191:6,10 206:17 212:22 rebutting [1] 144:24 recall [6] 37:11 80:16,22 81:18,20 82:20 85:6 86:6,21,25 100:11,17 120:18 122:23 123:1,3,5,9 128:18 139:6,7,13,16,17,24 165:9 176:23 190:5,11 192:10,17,18,20,22,25 193:7 198:9 199:22 200:11,13 201:2 202:13,18,20 203:16 204:11,15 205:2 207:4,12,23 211:25 212:2,16,20 213:2,3 231:6,7 239:4 250:25 recalled [3] 199:1 203:12,13 recalls [2] 80:25 201:14 receipts [4] 147:13 217:3 219:23 220:12 receive [5] 32:12,20 229:20 230:1 258:2 received [13] 47:5,23 52:9 76:23 148:11 160:2,6 170:1 229:21 258:</p>	<p>7,9,24 259:14 receiving [1] 10:4 recent [2] 72:10 73:3 recently [4] 50:14 72:22 159:23 164:12 recess [6] 71:17 115:15,17 189:14,16 263:2 recessed [1] 263:4 recite [1] 214:23 recognize [2] 75:17 216:24 recognizes [1] 216:21 recollection [41] 85:8,10 86:24 142:21 147:2,3 151:12 165:14 190:22 192:2,6 193:3,5,23 194:2 199:6,9,12,17,18 200:23 201:17,21,24,25 202:11,21 206:2,5,8 207:3,10,16,17 212:8 214:10 226:1,5 233:24 236:1 239:18 recommendation [1] 173:11 reconsider [1] 147:6 reconvene [2] 262:19 263:4 record [26] 34:20,25 38:8 44:9 68:7 95:20 98:1,2,10 140:10 142:14 143:19,20 144:23 145:17 147:16 157:7,9,24 198:17,19,21 209:2,12 210:3 248:23 recorded [1] 219:23 records [7] 77:7 116:19,20 129:23 133:10 156:11 244:10 RECROSS [1] 264:7 RECROSS-EXAMINATION [1] 155:17 redirect [8] 123:10 148:7 150:18 257:23 260:21 264:7 reduction [1] 7:8 refer [4] 55:5 109:8,9 128:13 reference [3] 216:13 218:10,15 referenced [6] 152:16 191:16 212:3,7 213:2 221:17 references [1] 195:17 referendum [1] 37:14 referred [5] 6:21 40:5 128:6 129:5 211:25 referring [18] 96:17 97:25 106:3 110:18 111:7 112:20 120:8,10,22 128:3,4 141:25 187:10 193:12 194:25 199:19 221:20 254:10 reflect [2] 250:9 254:18 reflected [5] 214:17 224:4,8,9,13 reflecting [1] 66:15 reflection [1] 233:14 refresh [7] 85:8 86:23 151:12 193:23 199:9 206:2 207:2 refreshes [2] 192:1 199:5 refreshing [2] 85:10 142:20 regard [48] 4:13 11:7 18:2 23:2 39:4,5 40:10 41:24 54:23 74:20 86:20 87:5 91:18 100:18 108:24 116:24 117:9 118:18 119:17 122:22 124:3 125:21 129:2 141:15,20 143:23 145:10 151:14 168:25 170:</p>
---	---	--	---

<p>24 171:20 175:15 176:7 177:19, 20 178:7 183:11 212:10 216:16 219:10,12 222:3,18 235:13,25 237:24 238:12 258:4</p> <p>regarded [1] 245:20</p> <p>regarding [3] 32:21 108:16 139:18</p> <p>regardless [1] 134:22</p> <p>regime [1] 235:5</p> <p>Register [3] 80:20 136:20 227:7</p> <p>regression [17] 19:13,14 33:7,16, 21 49:16 50:8,24 63:12 69:13 77: 8 78:1,5 101:4 107:25 133:8 150: 9</p> <p>regressions [5] 12:13,14,16 19: 10 63:24</p> <p>regular [5] 59:8 93:18 114:8,19 242:3</p> <p>regularly [5] 20:23 59:4 114:9 241: 16 242:12</p> <p>regulated [2] 9:3 50:4</p> <p>regulatory [1] 235:5</p> <p>reiterate [1] 241:8</p> <p>rejected [3] 96:12,13 97:3,4 147:1, 7,9 265:2</p> <p>rejoinder [1] 45:21</p> <p>relate [1] 14:12</p> <p>related [11] 62:8 160:20 175:12 180:25 186:15 220:25 229:11 230: 24 231:9 250:7 259:18</p> <p>relates [1] 194:11</p> <p>relating [3] 22:7 50:18 258:7</p> <p>relationship [23] 19:11,16 61:7,19, 24 62:4 63:16 64:21 66:4,17,22 100:20 101:5 103:23 108:1 131:6, 18,22 185:8 213:16,19 215:11,22</p> <p>relative [21] 10:6,11,16,17 18:7 29: 19 30:11,19 31:19,23 53:9 54:3 65:11 67:9 92:12 136:14 170:8 173:16,20 197:17 250:6</p> <p>relatively [3] 59:6 224:1 225:14</p> <p>relevance [14] 146:22 147:17 200: 6,18 201:8,9 207:13 208:22 209:4, 5 215:8,19 219:7,8</p> <p>relevant [9] 53:14,17 83:19 135:25 149:12 196:24 197:17 201:15 228: 9</p> <p>reliability [1] 32:4</p> <p>reliable [13] 8:17 9:11 12:20 22:22 25:21 26:24 30:14 32:2 41:8 54: 17,24 67:23 245:20</p> <p>relied [3] 17:23 60:19 61:17</p> <p>relies [3] 14:8 53:12 253:25</p> <p>religious [4] 89:23 93:17 247:7,8</p> <p>reluctant [1] 38:5</p> <p>rely [24] 13:7,15,23 17:19,22,23 26: 5,8 31:25 50:23 53:19 55:23 61:3 66:4,5 67:15 76:19 83:12 102:8 105:2 180:20 181:7 187:3 202:24</p> <p>relying [3] 55:8 63:7 64:8,23 104:7 121:1,11 244:8</p>	<p>remain [2] 24:21 136:24</p> <p>remainder [1] 17:8</p> <p>remaining [4] 58:12,15,15 183:14</p> <p>remains [3] 9:19 19:24 37:1 40:6 41:6 42:23</p> <p>remand [3] 128:14,18,24 212:12, 23</p> <p>remember [7] 105:6 139:21 151:2 165:10 192:11 204:16 212:12</p> <p>remembering [1] 204:20</p> <p>remembers [1] 198:14</p> <p>remind [1] 109:10</p> <p>reopen [1] 73:10</p> <p>reopened [1] 34:20</p> <p>reopening [1] 55:25</p> <p>repeat [3] 66:2 91:15 176:25 177: 10,11 209:15 233:2 251:4</p> <p>repeating [1] 93:4</p> <p>rephrase [1] 187:14</p> <p>replace [1] 94:10</p> <p>replacement [1] 112:16</p> <p>replicate [1] 172:23</p> <p>replicating [1] 172:24</p> <p>report [50] 11:9 15:11 16:10 17:4, 15 56:19 57:24,25 58:1,2,25 60: 17,20 62:22 77:12 82:23 88:8 97: 22 105:1 106:7 109:23 110:10 118:23 122:4 123:14,16 132:1 147:13 157:18 162:8 173:24 189: 25 190:2 200:25 202:3 217:3 218: 22 219:13 220:10,20 221:7,14 222:12,13 224:10,14 234:17 237: 12,22 243:20</p> <p>reportability [2] 59:2 117:14</p> <p>Reported [1] 1:24</p> <p>REPORTER [2] 209:19 266:10</p> <p>reports [46] 10:1,1 11:10,11,12,14, 18,22 12:1,7,8,20 15:15,20,24 17: 1,11,20,23 18:14,15 55:1,2 56:2 59:12 60:11 62:10 63:10 104:8,14 123:21 125:3 128:5,11 133:6,7,9 162:24 163:6 174:1,2 180:12 182: 10 184:17 221:8 239:22</p> <p>represent [10] 28:16 29:3 58:8 67: 23 165:5 181:21 189:6 195:16 196:14 216:17</p> <p>representative [3] 13:19 15:8 17: 8 18:4,19 19:25 57:8 59:11 61:4</p> <p>represented [2] 170:11 221:4</p> <p>representing [1] 220:22</p> <p>represents [3] 27:13,22 28:3,5,9, 15,19,25 77:24</p> <p>request [2] 235:25 258:19</p> <p>requested [1] 36:21</p> <p>require [3] 4:24 49:15 50:7 53:4 143:2 161:3</p> <p>required [1] 24:20</p> <p>requirement [2] 41:20 143:3</p> <p>requires [1] 166:19</p> <p>reruns [1] 242:25</p> <p>research [3] 9:3 164:22 168:22</p>	<p>respect [2] 54:25 259:3</p> <p>respective [1] 34:7</p> <p>respects [1] 75:18</p> <p>respond [10] 141:23 168:18 171: 12 182:15,16 191:8 209:10,13 247:19 249:20</p> <p>responded [1] 77:1</p> <p>response [9] 5:10 9:13 142:23 184:6 205:18 249:22 250:13,13 252:6</p> <p>responses [1] 150:14</p> <p>responsible [1] 224:17</p> <p>rest [7] 33:24 48:23 57:12,12 74: 18 97:12 98:14</p> <p>restaurant [3] 179:3,5,10</p> <p>resubmitted [1] 123:10</p> <p>result [3] 56:21 59:16 103:25 117: 15 126:18 173:2 184:7 241:22</p> <p>resulted [1] 240:20</p> <p>results [3] 17:21 59:23 103:16</p> <p>resumed [2] 71:18 189:17</p> <p>retain [2] 83:18 247:10</p> <p>retained [2] 165:18 235:10</p> <p>retaining [5] 94:4 136:3 137:1 150: 25 151:16</p> <p>retention [2] 80:4 83:1</p> <p>reticent [1] 6:6</p> <p>retransmission [3] 137:12 163: 10 164:3 166:6 167:1 213:6 251: 21 252:24 257:8</p> <p>retransmissions [1] 20:11</p> <p>retransmit [3] 88:12 94:7,17 136: 1 235:18 253:1</p> <p>retransmitted [14] 28:11 31:1 33: 9 53:10 55:19 115:3 125:25 168: 14 174:16 176:17 201:5 231:20 234:5,21</p> <p>retrieve [1] 68:19</p> <p>return [1] 56:13</p> <p>reveals [1] 136:21</p> <p>review [14] 52:23 60:18 72:4,11 73: 13 76:8 85:17 97:7,12 162:8 190: 9 211:21 212:5,25</p> <p>reviewed [19] 72:7,9,22 73:2,7 80: 8,17 86:22 96:20 123:16 183:10 190:1,8,15 192:3 198:8,10 199:10, 24</p> <p>reviewing [3] 85:6 86:6 190:13 192:17 200:11</p> <p>revised [1] 77:6</p> <p>revision [1] 191:13</p> <p>Richard [4] 86:16 193:6 195:9 196: 17</p> <p>Ridge [4] 15:21 23:10 47:12 56:17</p> <p>right-hand [3] 81:25 82:2 195:22</p> <p>rights [2] 163:10 164:3</p> <p>rightsholders [1] 28:25</p> <p>rigorous [1] 163:3</p> <p>ring [2] 80:21 82:18</p> <p>risky [1] 173:1</p> <p>RMR [1] 1:24</p>	<p>Robinson [9] 72:12,17 76:16,19 80:2 96:17 139:1 142:13 231:12</p> <p>Robinson's [3] 72:7 75:20 82:23 96:1,25</p> <p>Robison [9] 113:13 114:23 117:6 150:4 157:4,11,14,20,25</p> <p>Robison's [3] 111:16,21 112:6</p> <p>robust [2] 183:5 184:16</p> <p>RODP [17] 109:18 110:7,9,23 111: 1 117:10 125:3,16 127:14 128:11 132:1 180:12,22 184:17 221:8 223:25 236:17</p> <p>RODPs [20] 55:6 56:12 63:9 78:12 106:4 107:10 108:7 114:7 126:7 127:19,21 128:2,7 149:23 157:11 181:1 182:10 183:15 221:25 258: 2</p> <p>role [2] 163:19 166:2</p> <p>Roman [1] 249:2</p> <p>room [1] 164:9</p> <p>Rosston [1] 193:4</p> <p>rough [2] 69:25,25</p> <p>Roughly [2] 132:6 183:8</p> <p>round [20] 38:22,24 42:13 72:13, 17 73:14 76:12 80:10 97:8 122:24 131:24 132:10,12,20 139:2,7 190: 3 191:6 205:25 206:7</p> <p>rounds [1] 189:13</p> <p>route [2] 13:22 42:3</p> <p>routine [3] 109:20 203:3 235:22</p> <p>routinely [1] 249:5</p> <p>row [1] 70:7</p> <p>royalties [11] 7:18 28:9 29:8,17 30: 25 31:16,20 36:24 37:24 210:12 257:8</p> <p>ROYALTY [28] 1:1,6,9 4:6,25 6:20 7:7,9,19 8:9,10 22:17 28:6 30:2, 12 33:3,11 36:6,7,21 50:11 52:17 60:6,9 80:19 124:4 164:7 189:7</p> <p>rule [2] 25:6 144:15</p> <p>ruled [1] 146:7</p> <p>rules [1] 143:1</p> <p>ruling [5] 145:18 147:6 177:24 193: 25 194:1</p> <p>run [1] 63:24</p> <p>running [1] 107:25</p> <p>runs [1] 253:16</p> <p>rural [1] 55:19</p>
---	---	--	--

S

S-a-n-d-e-r-s [1] 159:19

S.E. [1] 1:17

sales [1] 184:24

salesmen [1] 25:12

salient [1] 245:2

same [50] 5:22 6:16 14:21,23 20:

12,15,19 26:14 38:9 58:18,21 61:

21 65:17 66:2 67:4,6 70:18,25 76:

5 87:7 99:7 102:23 103:16,25 107:

4 113:17,22,23 134:1 137:18 138:

5 140:8,15,17 143:21 146:21 150:

<p>4 157:18 160:14 161:25 165:20 177:23,24 179:21 186:24,24 198: 22 206:11 210:19,25 212:16 221: 11 242:22 243:15 246:8 256:2 260:1 261:24 sample [13] 11:24 12:4 13:13 18: 22 19:2 32:15 33:1 55:13 162:8 181:13,21 183:7 225:13 sampled [5] 78:18 117:24 149:18 157:16 158:4 samples [1] 12:1 sampling [2] 117:23 149:25 Sanders [37] 8:22 21:20 23:6 26:6 54:7 56:7 67:14 100:1,2,12 159:3, 7,14,18 164:21 165:4 168:12,20 169:3,8 170:3 172:8,13 176:23 182:1 189:23 209:10,12 216:24 218:10 220:19 244:14 247:23 257: 25 261:7 262:15 264:13 Sanders' [5] 26:22 220:10 243:20 244:1 245:24 satellite [68] 4:5,7,9 9:7 20:25 28: 13,24 29:8,12,13 31:1 32:19 33:2 35:10,23 36:7,9,10,10,11,12,13,14, 15,16,21,25 37:2 44:17 46:18 50: 14 59:20 101:2,23 102:5,9,12 106: 25 107:7 108:2,6,8,10,19 111:18 112:8 164:4 165:21 167:16 168: 13 175:14 176:8 177:21 189:7 211:14,19 213:6 221:11 222:15, 18,19 223:1 229:17,19 235:16 245:19 246:13 254:25 satisfactorily [1] 34:1 satisfy [3] 117:13 259:25 260:3 save [1] 141:2 saw [3] 49:19 204:12,24 saying [26] 5:9 13:24,25 14:17 16: 9 83:4 84:6,8,10 91:11,14 92:8,9 95:2 110:25 112:3 141:14,21 175: 24 185:2 198:4,5 201:20 215:5 232:24 248:25 says [17] 21:25 22:5 74:23,25 85: 22 88:2 92:5,19,21 103:22 112:25 197:16 208:19 209:21 224:14 238: 7 254:13 scale [6] 10:20 53:23 83:22 90:9 103:13 257:4 scaled [3] 10:2 53:24 223:5 scaling [7] 10:16 65:6,8 67:11 103: 2,8,17 scenario [1] 116:25 scheduled [1] 20:24 scheduling [1] 229:12 science [1] 28:22 scientific [1] 12:19 scope [14] 78:25 171:5,15,21 175: 24 176:2,3,13,13 243:24,24 245:6 247:14 251:23 score [1] 18:22 scrunged [1] 239:11 scrutiny [1] 185:14</p>	<p>SDC [50] 4:18 6:18 8:6,21 20:25 39: 1 40:11 41:24 43:14 46:15 47:25 52:18 54:4 63:21 65:12 67:25 77: 24 78:9 79:14 103:18 104:23,24 109:20 111:12 114:6 122:18 123: 20 126:2,6,8,11,13,14 128:15 129: 25 138:8 149:6,7,21 159:2 182:25 212:11 221:9,22 222:16 232:10 238:8,22 244:7 259:9 se [2] 10:9 18:9 search [7] 15:13,14 23:1,15 56:13, 21 62:15 searches [1] 15:17 seated [7] 4:4 48:9 71:19 116:3 159:4,10 189:18 second [29] 18:1 30:13 32:3 38:22 53:19 60:25 61:11 64:1,22 65:2 70:6 75:25 88:1 101:6 103:11 131: 18 170:17 172:8 222:19 233:5 250:5 254:12 257:5 secondary [1] 170:19 secondly [1] 174:15 Section [3] 24:9 96:4 254:10 see [43] 8:2 17:21 21:25 22:4 45:2, 12 64:1 69:2 70:14 75:23 76:18 77:10 80:2,25 81:5 82:12 86:12 88:15 90:7,18,19 94:15 101:8 113: 7 114:11 119:4 120:25 151:9 157: 7 175:7 186:8 192:15 195:16 196: 9 197:12 198:14 204:11 205:13 221:19 227:6 237:22 244:21 246: 4 seeing [10] 69:2 87:1 139:13 157: 8 198:9 205:2 207:4 213:2 214:10 221:18 seeking [1] 28:9 seem [7] 89:4 91:8,22 101:20 173: 10 192:25 233:12 seemed [4] 172:25 173:7 178:6 215:4 seems [9] 74:11 106:21 107:2 124: 10 198:4 208:4 216:10 227:15 234:7 seen [7] 43:24 44:23 82:18 99:20 199:2,4 227:7 Seinfeld [1] 149:3 select [2] 32:25 168:14 selection [1] 229:12 selects [1] 253:8 sell [1] 29:24 seller [2] 29:22 31:8 sellers [1] 164:2 selling [3] 186:6 230:14,16 sending [1] 20:14 senior [2] 161:11 162:1 sense [23] 10:19 11:1 21:17,19 25: 1 26:5,8 30:21 31:8 45:23 65:5,13 67:22 90:3,6 91:9 124:23 148:23 178:6 179:18 188:16 208:1 213: 24 sensitive [1] 17:18</p>	<p>sensitivities [1] 64:5 sensitivity [9] 17:9,13,17,25 60:23 sent [1] 32:16 sentence [21] 79:25 229:5 238:6 244:2,13,17,24 245:17 246:11,12 247:5,6 248:4 249:2,4,15 250:4,5 253:20,22 254:12 sentences [5] 247:2,20,22 248:5, 25 separate [1] 163:24 separately [2] 32:19 108:19 series [4] 27:25 72:24 149:13 174: 1 served [4] 50:10,12,15 110:16 service [2] 175:13 177:21 Services [4] 48:18 50:6 203:9 230: 15 SESSION [2] 116:1 264:20 SESSIONS [1] 264:22 set [18] 26:21 51:5 53:19 64:25 94: 13,17 114:18 137:1,3 151:20 164: 15 184:17 188:13,14,18,21 194:5 222:25 sets [2] 50:7 53:13 settlements [1] 8:2 Settling [6] 2:19 3:2 5:7 15:18 52: 15 170:12 seven [2] 78:12 104:10 Seventeenth [1] 3:7 several [4] 19:9 162:9 202:25 240: 16 Shall [2] 197:13 254:14 shape [1] 62:12 Shapley [6] 151:8,14 152:11,20 153:6,11 share [8] 7:18 29:4 35:22,25 36:8, 21 60:6,9 shared [1] 103:19 shares [17] 12:15 17:10,13 26:21, 24 30:8 33:11 36:18 52:17 67:24 108:20,21 126:16 186:25 189:4 244:12 254:3 Shaw [2] 3:6 47:9 sheer [1] 233:10 Shirley [2] 23:10 47:11 shoes [2] 210:19 252:3 short [2] 71:15 74:23 shots [2] 148:4,6 show [28] 17:7,10,13,17 19:6,11 31:11 33:13 35:17 40:23 58:12 59: 10,12 135:20 138:9 142:5,6 150:9 175:20 219:22 221:3 226:22,23 227:22 228:12,23 243:15 261:25 showed [2] 117:7 124:5 showing [5] 16:17 57:13,20 85:3 136:19 shown [3] 16:20 87:9 147:4 shows [11] 64:14 66:20 110:24 117:19 138:5 155:22 157:13 161: 10 226:22 228:20,21 side [8] 20:17,18 28:24 121:2,2</p>	<p>193:13,14 241:10 Sieber's [1] 88:2 signal [11] 167:23 172:24 186:13, 16,17 198:2 235:11 243:5 250:7 253:2 256:8 signals [7] 166:15 167:20,20 174: 16 256:9,10 257:5 Signature [1] 266:10 significance [4] 21:6 70:21 120:6, 17 significant [24] 9:20 19:7,8 33:23 37:23 42:25 61:22 63:15 64:3,20 65:22 67:1 69:5 70:11 71:4 74:12 77:10 93:25 100:22 114:12 194: 24 200:2 201:4 227:3 significantly [3] 57:2 101:10 179: 13 Silberberg [1] 2:14 similar [18] 8:18 9:10 13:7,7 19:23 31:22 54:1 59:17 65:24 67:5,10 71:8 89:20 173:12 186:8 197:1 214:11 259:25 Similarly [1] 173:4 simple [3] 42:7 62:21 68:19 simpler [1] 157:1 simply [8] 19:1 41:7 176:21 182: 23 208:6 211:1 226:16 234:23 since [10] 8:10 38:14 49:19 52:19 56:8 61:20 99:18 102:19 160:15 213:5 single [10] 14:16 15:4,11 16:7,7 17: 14 88:13 174:4,4 181:13 situation [5] 118:18 173:9 184:22 235:4 239:18 situations [2] 116:19 185:5 six [4] 27:15 37:17,17,21 size [7] 12:4 126:9 225:1,13 227: 14 245:3,21 sizeable [1] 55:13 sizes [2] 11:24 13:13 skeptical [1] 232:6 skill [1] 266:4 sleeve [3] 196:4,6,9 slice [4] 167:24,25 236:5,5 sliding [1] 257:4 small [13] 28:16,18 82:16 106:7 109:24 153:19 184:23 193:20 225: 6,14 227:6,7,13 smaller [12] 7:4 13:13,20 28:18 70: 16,16 114:16,17,17 133:8 225:6 226:21 Society [2] 161:12,19 solely [1] 217:11 solid [1] 239:17 solving [1] 135:15 somebody [4] 25:9 137:22 200:6 233:18 somehow [1] 89:9 someone [6] 103:21 120:16 211: 16 235:6,24 240:13 Sometimes [6] 6:7 55:5 109:7</p>
--	---	--	--

<p>127:25 162:23 185:1 somewhat [3] 178:25 223:18 256:9 somewhere [2] 15:22 16:11 sophisticated [3] 166:20 183:19 253:25 sorry [23] 13:12 57:23 58:20 67:7 91:16 113:15 123:7 139:11 140:22 143:16 145:25 147:24 155:15 172:10 183:3 195:25 203:25 213:24 219:17 224:8 233:17 237:21 250:19 sort [12] 7:24 74:16 100:19 116:21 151:7 156:25 166:2 172:18 213:1 241:17 242:22 243:7 sorts [1] 240:19 sound [1] 123:12 sounds [7] 106:3 119:12 129:6 131:16 205:5 231:2,16 source [4] 182:23 229:11 230:25 258:5 sources [6] 166:21 180:19,21 181:1 203:7 258:20 span [1] 162:18 speaking [1] 114:14 special [5] 157:5 240:16 241:15 242:2,12 specialized [1] 160:11 specials [14] 28:1 59:3 105:8,13 114:10 125:4,17,24 126:24 127:6 239:24 241:18 242:21 243:1 specialties [1] 161:18 specialty [3] 160:9,14 161:22 specific [19] 88:22 93:20 113:4 135:19,20,20 167:10 180:4,8 192:6 201:22 208:11 233:24 235:18, 23,24 248:24 251:18 262:5 specifically [18] 52:21 54:22 62:7 77:20 84:22 108:10 180:25 192:22 193:12 212:4 213:3 220:24 232:22,23 233:8 234:18 235:10 244:2 specifics [2] 201:18,21 speculating [1] 44:2 spend [2] 113:6,12 spite [1] 19:25 spoken [1] 235:15 sports [7] 21:7 28:1,23 90:11 93:18 225:16 246:17 spread [3] 132:5,24 163:24 square [4] 10:20,22 175:7,8 SSO [1] 229:16 SSOs [2] 230:4 255:16 stable [3] 16:18,23 57:21 stage [10] 64:19,25 65:1,2 72:3 91:12 101:6 103:12 108:9 261:2 stages [1] 66:7 stand [3] 24:1 99:14,15 standard [19] 10:14 20:6 29:16,24, 25 30:5,11,20 41:13 59:2 68:8,14, 16,18,19,21 69:1,14 172:18</p>	<p>standards [2] 117:14 162:5 stands [1] 162:1 star [1] 70:14 stars [1] 70:10 start [4] 8:2 13:1 76:6 188:21 starting [8] 9:24 18:9 34:13 52:15 65:20 85:1 111:3 256:20 starts [2] 90:4 248:7 State [3] 49:6,11 240:3 stated [4] 120:11 144:19 201:3 206:6 STATEMENT [39] 5:6 27:5 37:8 38:7,12 46:22,23 47:10,15 58:11 85:13 88:6 97:7,14,21 99:5,10,12, 13 120:14 123:4 141:11 143:5,7, 11 158:14 169:14 191:10 202:22 204:18 210:14 211:21 212:3,7,18 237:17 259:22 260:11 264:2 statements [14] 5:19 38:6 84:13 122:25 123:10 141:8 144:12 163:1 191:12 219:11 229:15 255:17 259:15 260:18 STATES [3] 1:1 174:5 181:10 station [16] 53:23 91:8,21 94:8,10, 13,17 117:12 120:24,24 135:2 136:2 149:4 176:17 235:18 257:6 station-by-station [1] 115:5 stations [16] 28:11 33:1 43:22 45:5 88:12 90:22,24 94:14,18 101:18, 24 136:15 149:1,10 203:11 257:9 statistic [3] 58:7 110:13 149:14 statistical [10] 25:19,22 26:11 40:4 48:20 49:16 67:13 70:21 74:14 183:20 statistically [11] 19:7 44:5 63:15 64:20 65:14 69:4 70:7,19,22 71:3, 9 statistics [4] 21:16 50:19 51:12 109:18 status [1] 234:8 statute [1] 43:2 statutory [3] 8:11 29:14 41:20 steered [1] 22:1 stenographic [1] 266:5 step [5] 10:10 64:22 142:18 167:18 202:8 stick [1] 75:14 still [14] 4:14 16:25 42:6,6 45:1 60:10,19 84:1 102:24 133:10 217:21 220:9,9 234:24 stimulate [1] 205:14 stood [1] 159:1 262:18 stream [1] 173:6 Street [3] 2:15,22 3:7 stretching [1] 25:15 stricken [1] 246:7 STRICKLER [49] 1:13 4:21 5:1 22:25 44:8 49:18,22 58:6,14,20 62:14,25 68:2,6,21 69:6,9,11,18,21 75:9 81:6 112:19 118:2 121:16,21, 25 122:7 136:9 137:5,14,21 138:</p>	<p>19 146:10,15 147:10,15 150:19 151:3 154:15,18 155:2,5 250:24 251:8,13 252:5,14 260:23 strike [20] 115:10 118:13 122:22 165:24 166:22 206:3 210:9 223:10 241:2 243:23 244:13 245:5,22 246:11,24 247:13 248:20 250:11 253:19 254:4 strong [2] 19:7 233:1 studies [4] 32:18 92:1 160:5 180:24 study [7] 82:11 83:4,6 136:21 193:17 199:17 238:25 stuff [1] 46:4 sub-ratings [1] 208:15 subject [6] 76:5 147:1 179:21 187:11,18 250:8 subjected [1] 163:2 submissions [2] 194:3 237:9 submit [7] 40:8 41:11 123:15,20 141:16 162:7 168:11 submitted [9] 23:8 33:18 50:16 52:16 122:25 143:4,6 168:24 206:17 subscribe [8] 136:23 137:18 202:23 203:4,6 240:6,13 241:25 subscribed [2] 136:24 138:2 subscriber [15] 53:20 88:4 107:21 151:1 175:2,21 178:2,4 180:17 240:9 241:23 246:22 254:20 255:24 256:3 subscriber-based [1] 160:25 subscribers [52] 10:3,3 20:15,16, 19 43:21 53:25 80:5 82:25 83:14, 18,19,20 84:11 88:3,16 90:2 94:1, 4 105:16 106:10,15,17,24,25 107:6,7,19 108:16,19 125:9 136:3,3,18 137:4 150:21 151:16 167:15,17 175:1,18 215:23 230:7,10,15 246:15 247:10 255:23 256:1,3,13,20 subscribers' [2] 83:22 230:25 subscribership [17] 39:6 43:16 44:10 137:9,25 213:11,15,17,18, 23 214:1 215:13 217:17 218:6 231:25 245:3 254:2 subscribes [1] 174:3 subscription [2] 175:13 203:8 subscription-based [1] 177:20 subsequent [1] 258:21 subsets [1] 232:17 substantial [4] 24:13 207:11,18 226:15 substantive [4] 142:24 143:9 144:7,23 substantively [1] 142:22 substitute [1] 89:22 sufficient [8] 18:18 41:8 81:17 133:23 184:1 251:24 suggest [3] 44:3 91:22 101:20 suggested [1] 79:17 suggesting [2] 89:4 91:9</p>	<p>suggestion [1] 88:2 suggestions [1] 44:15 suggests [2] 215:24 220:23 Suite [1] 2:22 summaries [2] 60:16 158:6 summarization [1] 150:1 summarize [1] 180:4 summarized [1] 38:2 summarizes [1] 149:22 summarizing [1] 149:14 summary [16] 15:24 16:2 17:5,14, 23 55:9,24 57:5 59:23 60:22 105:2 113:24,25 140:11 172:2 183:3 superior [1] 55:14 supervisory [1] 163:19 supplemental [1] 128:6 SUPPLIER [5] 27:6,12 28:2,6,8 Suppliers [16] 2:9 13:22 14:10,18 29:5,9 31:17 35:24 36:5,19,24 37:1 147:25 225:7,16 257:20 Suppliers' [1] 14:3 support [2] 45:16,17 supported [1] 74:14 supporting [1] 30:15 supports [2] 30:11,19 suppose [1] 220:6 supposed [2] 183:19 216:17 surprise [2] 79:17 133:18 surprised [2] 133:15 233:21 surprising [2] 20:2 21:2 survey [8] 55:22 82:11 92:1,11 136:7,8 193:17 233:12 surveys [10] 135:14 174:5,6,10 181:17 244:9 Sustained [17] 86:9 93:2 96:9,24 99:17 123:23 140:10,23 147:21 187:13 198:24 200:8,19 201:10 202:6 205:10 218:1 SUZANNE [1] 1:11 sweep [70] 9:25 11:8,10,11,12,13, 22,25 12:3,7 13:10 15:1,11 16:3,6, 19,19,21 17:1 18:24 19:3,4 53:16 54:15,16,23 56:2,19,22,24,24 57:8, 13,14 58:13,17 59:14,19 60:19 61:10 76:21,23 77:25 78:2,3,14 79:3 117:24 118:1,9 122:4 130:10,17, 24 149:1,16,19,23 150:5 157:3,16, 21,24 181:4,5,7 182:11 258:13,20 259:4 sweeps [7] 62:16 104:8,11 105:7 181:12 228:24 239:22 sworn [2] 48:7 159:8 symbol [1] 225:23 syndicated [3] 27:25 243:2 249:8 system [48] 6:20 8:4 20:14 37:20 46:18 89:9 91:6 93:10,21 99:22 100:3,10,13 101:22,23 153:19 165:15,17,19,21 166:25 167:12 168:8,13,13 169:1 171:3 174:25 175:14 176:7,8,16 177:21,22 178:23 188:3 208:6 210:16 227:25,25</p>
---	--	--	--

228:3 235:15,16 247:10 248:16
255:22,23 256:6
system-by-system [1] 230:19
systematic [5] 6:25 7:21 12:18 18:
6 25:2
systematically [1] 227:12
systemic [1] 226:18
systems [2] 20:19 163:24
systems' [1] 20:13

T

t-statistic [5] 69:1,9,12,19 70:12
t-statistics [1] 68:13
tab [6] 74:23 75:9,13 139:12 204:5
205:24
table [11] 21:19 27:10 55:9 67:23
69:13 70:10 109:21 117:11 157:
13 223:6,8
tables [11] 55:6 56:18,18 59:4,24
60:15,22 78:12 189:5 217:24 223:
12
talked [3] 15:13 122:9 129:3
talks [1] 136:20
tantamount [1] 14:20
task [2] 194:19 239:12
tasked [1] 29:6
taste [1] 65:23
tastes [1] 65:24
tax [2] 48:22 162:21
teach [1] 51:2
teaching [1] 51:1
team [1] 6:16
teams [1] 21:7
technique [1] 10:15
techniques [1] 178:12
telephone [1] 230:17
television [31] 8:25 27:19,25 28:
10,20 30:22,23 31:6,9,13 34:10
160:23 163:9,10 164:23 168:3,23,
25 186:5 203:11 228:18 243:2,5
244:16 245:10 246:1 247:25 249:
6,10,25 254:17
tells [5] 69:4 70:11,21 71:7 157:3
ten [1] 117:1
tend [2] 183:22 224:1
tendency [1] 181:24
tends [1] 184:3
tension [3] 24:7,7,14
term [4] 89:15 90:15 152:22 187:9
terms [22] 17:25 18:12 32:12 69:4
70:17 83:10 91:20 97:21 101:23
104:6 116:12,13 127:17 161:1
198:6 200:2 230:5,23 236:15 245:
2 246:21 258:23
test [4] 17:13 18:22 132:9 186:3
testified [28] 37:18,21 42:15,20 46:
18 48:8 54:14 62:14 86:5 93:1
100:14 101:7 159:9 164:6,9,10
176:9 200:21 204:13 205:6 206:6
208:13 209:7 212:1,17 225:18
234:3 235:13

testify [4] 31:14 32:11 33:10 248:2
testifying [6] 45:3 92:25 93:5 165:
9,10 199:23
testimony [137] 5:20 9:5 20:4 21:
24 23:25 26:22 32:6,13,21 33:19
43:12 46:17 50:16 51:7,8,21 53:2
57:6 61:12,13,20 63:6 67:18 72:5,
8,12,16,18 73:14 75:20 80:8 84:
20 85:6,8,24,25 86:3,4,16 87:2 92:
18 95:22 96:1,16,25 99:21 101:12
116:14 131:5 137:5 138:25 139:2,
9,18 141:9,18,18 142:6,13,23,25
143:2,3,4,9,24 144:2,6,10,24 145:
3,4,7,8,9,11 146:11 147:11 151:6,
14 152:4 153:10 156:14 161:9
164:18 165:14 168:24 188:25 189:
6 190:3 191:6 192:12,17 193:1,8
195:10,18 196:10,11,13,17 197:15
198:8,10 199:2,10,15,23 200:11,
22 201:12,18 202:2,10,11,14,19
203:15,17,18,22 204:12 205:24
206:11,15,17 210:2 211:1 212:6,6
234:19,24,25 244:1 261:17,20,24
testing [1] 12:17
tests [2] 17:17 183:11
text [2] 76:7 193:21
thanks [2] 149:21 252:17
themselves [4] 9:12 23:7 83:7
141:6
theory [1] 31:25
there's [21] 4:8 13:13 38:19 42:6,6
45:16 116:23 127:13 131:6 134:
24 135:11 145:15 152:13 156:4,
18,18,23 158:15 179:8 188:15,19
therefore [9] 41:11 181:14 215:12
246:21 247:11 253:2,17 255:25
257:9
therein [1] 98:22
they've [2] 40:9 61:1
thin [5] 4:19 167:24,24 236:4,5
thinking [5] 116:11,12 135:17 182:
20 197:24
third [1] 257:5
thorough [1] 34:15
thoroughness [1] 33:14
though [9] 17:19 40:16 41:2 60:3
74:5 130:10 139:25 179:16 186:
12
thousand [2] 80:19 133:17
thousands [10] 28:5 79:16 113:2
148:15,16 149:3,17 150:12 181:
17 190:16
three [22] 6:22 9:9 24:5 30:6 56:23
57:12,13 58:13 78:2,3 127:21 129:
14,15 130:22 172:15 182:20,21
221:2 225:21 239:25 247:19,21
three-quarters [1] 75:6
threshold [3] 58:24 59:7 121:23
throughout [4] 5:18 17:15,16 149:
1
throw [1] 124:2

tied [1] 136:17
tiers [1] 21:1
tight [1] 74:1
timing [1] 239:8
title [1] 220:23
titled [1] 217:3
Toby [5] 9:6 20:3 21:20 46:17 210:
2
today [15] 5:10,21 6:16 24:2 34:21
45:1 98:21 111:17,21 112:6 113:
13 114:23 136:20 180:7 194:8
together [4] 29:2 64:15 118:3 244:
9
tomorrow [1] 262:23
took [6] 15:10 32:15 73:6 208:20
209:21 259:11
tools [3] 244:11 254:2,21
top [1] 100:19
total [15] 11:12 12:1 76:22 77:7 79:
13 110:12 127:21,22 130:19 133:
3 148:14 149:5 157:12 180:13
214:17
totally [1] 233:22
touch [1] 138:22
touched [1] 138:22
towards [3] 10:11 74:24 214:8
town [1] 162:24
tracking [1] 223:8
tracks [1] 221:1
trade [1] 203:9
traded [1] 163:1
transaction [2] 7:8 29:23
transcript [8] 22:3 145:5,8 177:8
196:19 197:6 261:1 266:4
translated [1] 229:25
transmission [1] 253:2
transmit [1] 260:2
transmitted [1] 43:22
trap [2] 25:10,16
traps [1] 25:12
Trautman [2] 140:18 192:19
Trautman's [1] 192:20
treat [3] 7:14 121:18,25
treating [1] 65:12
tremendous [2] 185:13 214:4
trend [10] 19:14 63:23,25 65:15,23
70:5,5,8,13,22
trends [4] 219:21,22 220:22 223:8
trial [2] 71:18 189:17
Tribune [6] 14:9,11,13,16 15:4 33:
6
tried [4] 23:3 24:24 75:12 109:16
trigger [1] 81:22
trillions [2] 155:7,8
trouble [1] 41:4
true [13] 28:14 51:20,24 101:14,25
102:21 121:18 122:1 125:6 127:
25 169:13,18 266:3
try [3] 5:11 7:17,22 10:6,18 12:18
13:1,2 14:19 15:14,19 16:15 19:
10 21:22 23:15 40:9 62:15 73:11

89:3 111:14 139:22 144:12 170:
21 182:18 185:18 188:13 194:21
202:8 204:11 226:3 234:13
trying [32] 5:14 10:8,11,21,23 11:2
18:8 20:7 31:18 65:3 83:16,17
103:5 110:22 111:9 121:6 122:12
133:25 140:10,11 172:23 173:5
187:2 198:13 204:14 205:11,12,
13,13 211:14 227:5 234:23
Tuesday [1] 263:4
Turkey [1] 49:9
turn [3] 67:17 151:6 188:24
TV [2] 164:2,2
twice [2] 114:10 130:21
two [44] 5:23 6:14 13:11 16:6 17:9
24:14 30:1 31:21 38:2 40:3 44:25
45:19 53:13 56:24 59:10,14 63:16,
24 64:5 71:1 75:14 78:2,3 80:19
87:22 93:14 127:22 130:24 155:
13 170:6,9 173:15 180:21 181:1
184:24 186:1 213:20 218:11 247:
1 250:23 253:18,18 254:19 259:
25
two-thirds [1] 75:7
type [6] 49:16 166:4,18 173:2,5
256:10 257:4,6
types [2] 118:10 162:17
typical [2] 69:12 174:20
typically [7] 49:9,15 50:7 174:6
179:5 188:12 232:16
Tysons [1] 48:19

U

U.S. [5] 48:23 55:12,16 65:19 107:
11
U.S.C. [2] 24:8,9
ubiquitously [1] 233:21
ultimately [3] 210:11,11 239:13
Um-hum [2] 146:2 240:2
unable [3] 34:22 122:14 237:13,14,
23 238:11,20,23
unanimous [1] 210:6
unanimously [1] 210:1
unchanged [1] 35:2
uncommon [2] 12:25 175:6
under [14] 14:16 24:8 29:13 70:13
89:19 96:3 126:7 155:22 163:21
179:11 185:13 214:4 228:23 247:
2
underlying [5] 18:13,14 78:20,22
149:24
underscore [1] 10:5
understand [31] 21:11,18,22 25:6
39:25 47:15 57:7 58:8 74:16 82:
21 87:16 88:20 111:10 120:3,19
121:4,7 122:10 136:10 145:3,6,12
151:24 154:6 166:11 167:3 170:5
187:2 207:7 223:9 242:11
understanding [23] 26:13 65:10
78:21 101:14 116:22 141:2,4,13
142:1 143:24 144:8 156:14 165:

<p>13 203:2 205:17 207:8 213:8 224:6 252:20 257:3 258:11,15 259:5</p> <p>understands [2] 175:25 216:18</p> <p>Understood [5] 39:15 44:23 170:15 221:2 262:6</p> <p>undertook [2] 33:14,16</p> <p>undoubtedly [1] 66:10</p> <p>unexpected [1] 53:3</p> <p>Unfortunately [2] 40:16 41:1</p> <p>uniform [1] 162:5</p> <p>uniformly [1] 236:18</p> <p>unique [5] 241:16,17 242:3 243:10,11</p> <p>unit [1] 78:4</p> <p>UNITED [3] 1:1 174:5 181:10</p> <p>units [3] 78:18 255:24 256:4</p> <p>universal [1] 21:4</p> <p>universe [7] 16:12 144:16 153:3 154:14,16 155:9 236:16</p> <p>University [4] 49:7,8 51:3 160:7</p> <p>unless [6] 42:3 53:2 154:5 228:19 229:23 262:13</p> <p>unlike [1] 11:22</p> <p>unrated [1] 240:4</p> <p>unreasonable [2] 108:13,23</p> <p>untenable [1] 210:11</p> <p>until [2] 115:15 263:2</p> <p>unworkable [2] 173:1,7</p> <p>up [50] 4:17 15:17 23:3,20 26:9 41:8 43:10 44:13 45:20 46:3 64:14 65:6,8 67:11 73:21,22 83:22 89:16 90:9 93:17,19 97:21 108:13 110:4,25,25 112:16 117:22 125:16 127:14 149:2 152:10 173:19 180:15 184:10 195:21 213:18 214:1,2 215:3,7 217:18 222:4 226:22,23 228:12,19,23 235:21 248:20</p> <p>updated [1] 234:8</p> <p>upper [4] 81:25 82:1,2 195:21</p> <p>urge [1] 5:18</p> <p>usability [1] 187:21</p> <p>usable [2] 12:20 16:16</p> <p>useful [4] 14:23 15:3 197:22 198:6</p> <p>usefulness [1] 200:14</p> <p>uses [3] 13:12 16:25,25</p> <p>using [61] 9:24 12:6,9,10,14,16,21 13:4,8 14:7,25 15:11 19:13,15 25:5 26:11 37:14 63:8,13 67:5,6 71:2 76:25 77:17 85:24 86:2 88:14 92:15 99:1,1 103:11,23 104:7 106:14 107:13 109:9 115:1 117:23 118:8 119:8,9,10 129:3 133:23 134:18 135:10 137:11 138:15 141:8 154:11 155:19 176:21 180:12,18 182:2 186:9 227:24,24 228:6 233:18 236:10</p> <p>USPAP [1] 162:6</p> <p>utilization [1] 194:7</p> <p>utilize [1] 108:23</p>	<p>vague [3] 123:19,22 187:8</p> <p>valid [2] 8:17 9:10</p> <p>valuation [46] 7:1 8:23 22:11 48:18 151:8,14 152:11,20 153:6,11 160:8,11,21 161:23 163:5 164:22 166:8 168:22 172:18 173:14 174:25 175:1,9 176:4,6,9 178:12 185:22 187:4,18 207:25 208:5 235:7 236:3 244:15,21 245:8,9,13,24 247:23,25 248:13,14 249:23 260:22</p> <p>valuation-type [1] 161:4</p> <p>valuations [4] 26:9 163:13 164:1 185:25</p> <p>value [95] 8:18 9:20 10:7,12,16,20,21 11:2 18:7 20:7,8 29:20,20 30:11,19 31:4,19,24 37:15,23 45:7 53:10 54:3,8 65:4,4 67:9,11 68:13 78:1 83:23 85:16 88:3 91:20 92:5,9 93:10,22 94:13,16 103:6 106:4 111:16 125:24 134:14 136:15 151:19,25 152:22 156:22 157:24 163:6 166:8 170:9 172:16 173:16,18,21,22 174:22 175:2,8,12,16 176:16 177:20 178:5 180:13 184:22 187:2 195:6,7 197:17,17 198:6 201:5 215:25 232:9,21 233:7,8 234:4,21 235:4 240:5 241:3,5 246:13 247:12 248:6,8,16 249:9 250:6 254:23</p> <p>value-related [1] 232:7</p> <p>valued [2] 175:7 200:3</p> <p>values [9] 42:12 68:12 69:3 70:15 176:20,21 208:10 223:3 248:16</p> <p>valuing [3] 8:24 83:8 231:19</p> <p>variable [7] 19:14 54:2 63:14,25 65:23 70:6 231:14</p> <p>variables [1] 231:17</p> <p>variance [1] 202:25</p> <p>variation [4] 16:21 63:13 64:7 151:25</p> <p>variations [1] 63:17</p> <p>variety [6] 138:17 160:19,24 161:18 168:1 203:7</p> <p>various [12] 38:1 66:9,10 101:24 117:6 179:25 180:1,14 183:1 221:3 231:8 258:17</p> <p>vary [2] 178:25 256:8</p> <p>vast [2] 20:10 166:16</p> <p>Vay [2] 23:13 47:8</p> <p>vegetarian [2] 179:9,10</p> <p>verify [2] 16:15 19:10</p> <p>version [2] 40:20 60:21</p> <p>versus [7] 9:16 89:25 102:6,9 108:5,8 150:9</p> <p>video [6] 181:10 210:22 211:7 230:15,20,24</p> <p>view [13] 13:2 15:8 83:4 95:18 107:12 174:7 198:9 201:15 207:20,21 208:14 209:24,25</p> <p>viewed [4] 59:8 110:3 137:16 157:</p>	<p>14</p> <p>viewer [2] 61:14 231:24</p> <p>viewers [15] 88:15 90:7 107:5,16 118:5 136:21 137:7,15 138:1 148:25 150:21 174:2 241:17 260:6 261:12</p> <p>viewership [78] 8:8,16,17 9:9,19 10:9 11:19 14:22,23 21:10,11 26:14 30:21 31:12,22 37:14 39:10 42:3,17 43:8,20 44:18 54:2,8,18 58:24 61:2,4,14 63:10 66:11,16,18,24 67:8 84:5,9 85:17 88:20 92:9,15 93:22 101:1,3 113:19 135:25 136:5,10,12,13,16,17,25 138:16 150:23 151:15 175:11,15,25 177:19,25 178:15 180:19 184:2,3 195:1 213:17,18 215:23,24 218:7 220:11 227:23 231:24 236:11,12,22,24</p> <p>viewership-based [1] 41:7</p> <p>viewing [135] 11:6 18:3,4,8,12,17,19,20,21 19:3,9,17,22,24,25 31:25 33:8 35:2 39:4 40:5 54:24 61:8 62:7,7,17 88:5 92:20 93:11 98:25 102:5 103:7 104:9 106:18,19 107:22 109:7,13,14,15 110:8,11,12,24 111:1,4,24,25 112:15 114:3,15 115:9 116:8,9,12,13,20,24 117:1,4,5,7,11,21 118:16,17,20,21,25 119:6,14,15 120:7,17,22 130:6 131:8 137:17,22 138:2 150:15 152:1 156:18,24 174:8 175:18,19 178:2 179:1 180:21,25 181:2,3,22 183:12 184:14,15 185:9,20 186:13 213:14 215:13 219:21,22 220:22 221:1,1,3,24 223:20 224:4,25 225:5,10,25 226:15 227:3,22 228:9 231:14 232:3,4,9,11,12 233:9,10 238:9 241:25 245:3 249:3,4 254:1 258:8,20 259:4</p> <p>viewpoint [1] 134:19</p> <p>views [3] 96:21 207:22 210:7</p> <p>VIII [1] 249:2</p> <p>vintage [1] 214:13</p> <p>VIP [1] 174:2</p> <p>Virginia [1] 160:7</p> <p>virtually [1] 28:20</p> <p>visually [1] 183:21</p> <p>vitae [5] 51:6 161:8 164:15 234:8,15</p> <p>voir [7] 164:24 165:2 168:10 250:25 251:9 252:15 264:15</p> <p>VOLUME [11] 1:22 10:17 149:9 173:13,18 174:18,23 175:9 178:6 195:7 233:10</p>	<p>WARLEY [1] 3:4</p> <p>Washington [9] 1:3,18 2:16,23 3:8 159:20 160:10 179:7 186:16</p> <p>watch [6] 30:23 31:2 150:21,21 231:18 242:14</p> <p>watched [3] 40:23 136:22 228:4</p> <p>watching [7] 31:6,11 78:9 138:5,8 228:20,21</p> <p>way [42] 6:1,25 7:15,21 8:16 10:12 12:19 13:7 14:17,20 21:23 22:2 64:4 75:7 88:19 94:6 101:17 102:11 109:3 121:11 123:24 124:9 126:21 134:1 141:12 142:15 145:15 157:2 161:6 163:19 181:11 184:10 188:9 202:4 207:21 208:14 228:17 233:5 237:2 240:17 248:7,7</p> <p>ways [4] 19:23 57:7 70:9 204:13</p> <p>weakened [3] 131:11,12,18</p> <p>weather [1] 21:7</p> <p>weeds [1] 138:11</p> <p>week [5] 104:10 239:25 240:12 243:9,11</p> <p>weeks [6] 49:2 104:11,12 105:7 159:24 178:10</p> <p>WGN [8] 124:25 125:2,8,14,21,25 126:9 127:6</p> <p>WGNA [4] 20:20,22,24 126:4</p> <p>whatever [7] 22:21 76:15 148:16 243:12 251:13,15 258:1</p> <p>whenever [1] 42:8</p> <p>whereas [1] 223:6</p> <p>Whereupon [4] 48:5 115:16 159:6 263:3</p> <p>wherever [1] 112:14</p> <p>whether [55] 18:17 30:13 31:5,10 39:22 44:17 45:4,8 61:2 81:17 91:19 99:24 100:9,15 119:13 134:19,22 135:1 136:22 137:15 142:21,22 144:15 145:8 150:20 158:13 166:1,3 168:2 184:1 186:4 192:2 202:15 203:8,17 206:3,14 207:3 211:18,19 215:1 234:23 251:20 252:22 253:7,8,12,14,16 256:7,25 258:12 259:14,21 260:14</p> <p>whichever [1] 248:23</p> <p>Whitt [1] 61:16</p> <p>Whitt's [1] 18:13</p> <p>who's [1] 9:2</p> <p>whole [18] 8:4 66:5 84:24 88:13 90:10,10 94:8,10 118:9 149:13 163:7 208:7 238:6 244:5 248:8 255:7,7,9</p> <p>whom [1] 176:8</p> <p>wide [1] 162:18</p> <p>widely [1] 228:2</p> <p>will [94] 6:6 7:1,1 8:20,20 9:9 11:2 13:21 17:19,21 22:25 23:1 25:16 30:4,6,7,16,18 31:11,14,24 32:10,20,24 33:5,10,13 35:4,6,12,17,18 37:3 44:8 57:11 58:12 65:24 66:</p>
---	---	--	---

W

wait [1] 197:12

wanted [11] 77:15 135:23 143:8 148:9 150:17 151:5,18 152:11 172:9 253:10 259:13

wants [2] 81:3 143:20

23 74:2 81:3 84:22 85:1 86:12 92:10 96:15 101:16 103:25 106:23	working [5] 23:18 100:5,9 107:3 158:5
107:4,4 112:25 114:12,18 115:14 120:25 125:1 131:22 137:3 140:7,9 141:1 147:5 158:1 163:5 177:15 179:5,24 193:11 195:16 196:14	world [3] 48:23 154:12 188:9
216:3 220:2 225:3,22 227:5 229:4 234:13 244:25 247:1,15 248:3	worry [1] 64:16
249:19 250:20,22 254:7,14 255:3 256:6 260:5 261:8,11 262:19,20,24	worrying [1] 64:9
willing [2] 29:21,22	worse [2] 41:5,25
Winthrop [2] 3:6 47:9	worth [1] 239:19
wires [1] 48:2	worthy [1] 191:12
wish [2] 62:11 67:2	write [2] 75:15 152:10
withdraw [2] 89:12 99:16	writing [3] 142:16 143:5,6
withdrawn [1] 99:18	written [4] 23:25 46:22,23 47:15 51:7,8,21 53:2 67:18 84:20 96:1 97:14,20 99:4,12,13 122:25 123:4 139:1 141:8,10 143:5,7,10 145:9,11,12 146:13 151:13 153:10 161:9 164:18 169:14 188:25 189:5 196:10,11 203:18 205:24 206:9,10
within [30] 15:4 24:10 29:4,9 31:19 34:6 54:22 57:22 58:18,20 63:19 69:7 78:25 79:20 88:22 89:24 90:5,5 103:8 109:18 138:5,12 161:18 176:13 180:1 184:8 208:12 221:25 229:6 246:18	WSG [2] 123:3,6
without [11] 64:9 93:23 136:11 137:24 138:10 152:12 188:11 197:25 218:10,15 241:21	Y
witness [92] 5:19 8:21 9:1,6 24:2 30:3 33:14 49:5,21,23 50:10 58:1,9,17,22 59:1 62:20 68:5,11,24 69:8,10,15,20,22 80:24 85:3,4,5,25 86:4 87:9,18 90:16 92:25 95:11,24 96:19,19 112:22 113:15,20,23 118:4 121:20,24 122:2 124:6 130:8 137:10,19 138:4,20 139:13 140:20 144:13,24 154:21,24 158:25 159:1,11 176:25 177:25 182:4 188:6 192:12 196:12 201:14 205:16 207:15 209:5,7,15,23 214:23 216:18,20 217:2,8,12 218:11,18 251:1,2 252:9 261:13 262:9,17,18,23 264:7	year [42] 16:5,7 17:7,8,15,16 18:15 19:15 28:6 36:8 55:14 57:9,22 58:3,18,19,21 64:1 65:22,22 70:5 79:6 104:11 114:10 123:11 129:13,16,18,23 130:6,9,23,24 133:1,10 149:1 174:13 185:6 222:20 237:18,18 240:16
witness' [5] 142:23,24 144:6,12 209:6	year's [1] 239:19
witnesses [19] 5:21 23:1 26:6 30:15 32:8,10 34:3,14 35:4,19 37:17,21 38:17 46:15 209:11 212:1,17 259:16 260:19	year-by-year [1] 222:15
wondering [1] 81:16	years [65] 4:6,7,9 5:23 6:14 11:7,9,11,13,15,25 15:12,16 17:1,12,24 22:17 23:21 32:18 33:3,4,10 42:15 53:17 56:2 59:19 62:2,8 66:2 67:16 72:6 79:9,13 103:23 104:16 111:17,18 112:7,8 129:11,15,19 130:19 132:5,25 133:16 162:10 168:1 182:12 183:5 184:10,15 185:7 190:25 213:14 216:11 217:18 218:8 230:13 235:21 236:20 237:11 238:12 258:10,21
word [3] 207:17 225:3 229:4	years' [1] 8:23
words [15] 82:10 86:3 107:8 118:17 119:25 134:24 204:20 205:1 221:21 223:10 237:22 239:23 244:4 253:3,23	yep [2] 75:19 82:13
work [30] 25:13 26:19 33:23 34:16 40:9 49:22 50:5 72:3 76:13 77:1 131:21 132:14 160:17,17,20 161:2 162:16,21,22 165:15 167:7 168:1 170:17 185:11 199:20 210:15 234:9,10 235:8,22	yield [1] 173:15
worked [9] 100:3 128:20,22 165:17 207:8 210:16,20 211:10,13	yielding [1] 173:2
	York [1] 181:11
	yourself [3] 120:16 159:16 168:6
	yourselves [2] 37:19 48:15
	Z
	zero [43] 40:5 42:1 98:25 109:6,14,15 111:23 112:15 114:2,15 115:9 116:8,9,12,13,19,24 117:3,5,7,11,21 118:16,17,19,21,24 119:6,14,15 120:6,17,22 121:22 150:15 156:18,23 178:2 224:25 225:5,10,24 256:20
	zeros [7] 118:3,6 120:25 121:18,19 122:1,6